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Thursday
March 27, 1997

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 97–AWP–4]

Adding Controlling Agency to Restricted Areas: R–2530 Sierra Army Depot, CA; R–4802 Lone Rock, NV; and R–4811 Hawthorne, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action adds ''FAA, Oakland Air Route Traffic Control Center (ARTCC)'' as the controlling agency for Restricted Areas 2530 (R–2530), Sierra Army Depot, CA; R–4802, Lone Rock, NV; and R–4811, Hawthorne, NV, to support the provisions of the Open Skies Treaty. This is an administrative change, therefore, there are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted area.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) adds ''FAA, Oakland ARTCC'' as the controlling agency for R–2530 Sierra Army Depot, CA, R–4802 Lone Rock, NV, and R–4811 Hawthorne, NV, to support the provisions of the Open Skies Treaty. This amendment is an administrative change, therefore, there are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted area. Because this action is a minor technical amendment in which the public is not particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Sections 73.25 and 73.48 of part 73 of the Federal Aviation Regulations were republished in FAA Order 7400.8D dated July 11, 1996.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action adds a controlling agency to the specified restricted areas. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas. Accordingly, this action is not subject to environmental assessments and procedures as set forth in FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R–2530 Sierra Army Depot, CA [Amended]

By adding the following controlling agency: ''Controlling agency. FAA, Oakland ARTCC.''

§ 73.48 [Amended]

3. Section 73.48 is amended as follows:

R–4802 Lone Rock, NV [Amended]

By adding the following controlling agency: ''Controlling agency. FAA, Oakland ARTCC.''

R–4811 Hawthorne, NV [Amended]

By adding the following controlling agency: ''Controlling agency. FAA, Oakland ARTCC.''

Issued in Washington, DC, on March 19, 1997.

Jeff Griffith,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–7825 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ivermectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Research Laboratories, Division of Merck & Co., Inc. The supplemental NADA provides for persistent control of gastrointestinal roundworms and lungworms following use of ivermectin injection for cattle for treatment and control of certain harmful gastrointestinal roundworms,

lungworms, grubs, lice, and mange mites infections.

EFFECTIVE DATE: March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, is sponsor of NADA 128–409, which provides for the use of Ivomec® Injection (1% ivermectin) for cattle for the treatment and control of gastrointestinal roundworm, lungworm, grub, lice, and mange mite infections. The supplement provides for control of infections of *Dictyocaulus viviparus* and *Ostertagia ostertagi* for 21 days after treatment, and *Haemonchus placei*, *Trichostrongylus axei*, *Cooperia punctata*, *C. oncophora*, and *Oesophagostomum radiatum* for 14 days after treatment. The supplement is approved as of February 24, 1997, and the regulations are amended in 21 CFR 522.1192(d)(2)(ii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii), approval of this supplement qualifies for 3 years of marketing exclusivity beginning February 24, 1997, because the supplement contains substantial evidence of effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. Exclusivity applies only to the additional indications.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.1192 [Amended]

2. Section 522.1192 *Ivermectin injection* is amended in paragraph (d)(2)(ii) by adding to the end of the paragraph the sentence ''It is also used to control infections of *D. viparus* and *O. ostertagi* for 21 days after treatment, and *H. placei*, *T. axei*, *C. punctata*, *C. oncophora*, and *Oesophagostomum radiatum* for 14 days after treatment.''

Dated: March 17, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–7789 Filed 3–26–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8–95–026]

Drawbirdge Operation Regulation; Bonfouca Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulation governing the operation of the swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana. A notice of proposed rulemaking was published on May 1, 1996, and a supplemental notice of proposed rulemaking (SNPRM) was published on December 27, 1996, because of comment received. This final rule maintains the operating times published in the SPRM to which no comments were received.

DATES: This regulation becomes effective on April 28, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking [61 FR 19223] on Wednesday, May 1, 1996. Comments received prompted the Coat Guard to reevaluate the proposed rule. Mariners and business owners, located upstream of the bridge commented on the proposal, stating that their business would suffer if vessels were not permitted to transit above the periods of three continuous hours. Additionally, local commercial marine interests requested that the draw open on demand from 9 p.m. to 5 a.m. if at least 4 hours advance notice is given, in lieu of 12 hours notice. Subsequently, a notice of supplemental proposed rulemaking along with a notice of temporary deviation was published Friday, December 27, 1996 [61 FR 68198] incorporating changes in the proposed rule. No comments were received on the latter notice. Accordingly, the Coast Guard will maintain the operating times as noted in the notice of supplemental proposed rulemaking.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and non-for-profit organizations that are independently owned and operated and are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000.

Since this final rule was revised in response to comments, concerns and suggestions of local mariners and maritime business interests, the economic impact of this final rule is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C.

604(b) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Enviornment

The Coast Guard considered the environmental impact of this final rule and concluded that under paragraph 2.B.2.g(5) of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.433 is revised to read as follows:

§ 117.433 Bonfouca Bayou.

The draw of the S433 bridge, mile 7.0, at Slidell, shall operate as follows:

(a) The draw need not open for passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m., Monday through Friday except Federal Holidays.

(b) The draw need open only on the hour and half-hour from 6 a.m. to 7 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays.

(c) The draw shall open a signal from 9 p.m. to 5 am., if at least 4 hours notice is given to the Louisiana Department of Transportation and Development Security Service at (504) 375–0100.

(d) At all other times the draw shall open on signal.

Dated: March 7, 1997.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 97–7730 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 162

[CGD09–97–005]

Temporary Speed Limits for the St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is making a temporary amendment to the speed limits for the St. Marys River during the 1996–97 icebreaking season. This amendment reduces the speed limit by 2 miles per hour through that part of the system, between Munuscong Channel Lighted Buoy 8 (LLNR 13065) and Lake Nicolet Light 80 (LLNR 13465) upbound and between Lake Nicolet Light 80 (LLNR 13465) and West Neebish Channel Light 9 (LLNR 13715) downbound. These temporary changes to the speed regulations are a precautionary measure to minimize any possible damage to the environment due to movement of large commercial vessels through the ice.

DATES: This regulation is effective from March 13, 1997, through April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) John Marian, U.S. Coast Guard, Group Sault Ste. Marie, 337 Water Street, Sault Ste. Marie, Michigan, 49783, (906) 635–3303.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate action is necessary to prevent possible damage to the environment.

Discussion of Proposed Regulation

In a letter received on February 26, 1993, the Michigan Department of Natural Resources advised the Commander of the Ninth Coast Guard District of concerns over the environmental impact of ship transits through the St. Marys River during the period of March 21 to April 1. March 25 is the fix date for the opening of the locks at Sault St. Marie, which allows large commercial shipping access to the St. Marys River from Lake Superior. In accordance with an agreement reached on June 29, 1993, with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources, the Commander of the Ninth Coast Guard District is making this temporary change to the speed regulations during periods when ice breaking is being conducted in the vicinity of Neebish Island, St. Mary's River, Michigan. This speed reduction is a precautionary measure to minimize possible damage to the environment. The speed limit is being reduced by 2 statute miles per hour in the area between Munuscong Channel Lighted Buoy 8 (LLNR 13065) and Lake Nicolet Light 80 (LLNR 13465), upbound, and between Lake Nicolet Lighted Buoy 80 (LLNR 13465) and West Neebish Channel Light 9 (LLNR 13715), downbound. The West Neebish Channel Light 9 checkpoint has been added to extend the reduced speed limit area past Winter Point, thereby protecting the sensitive environment between Winter Point and West Neebish Channel Light 9. Speed limits apply to the average speed between established reporting points.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

A recent environmental impact study by the United States Army Corps of Engineers indicated that March 21 is the optimal opening date of the locks at Sault Ste. Marie. [see U.S. Army Corps of Engineers Draft Environmental Impact Statement, Opening Operations of the Lock Facilities on March 21 (February 1993), Supplement III to the Final Environmental Impact Statement, Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan (July 1997)]. The same study by the Corps of Engineers indicates that there is no significant impact on fish populations due to movement of large commercial vessels through the ice. However, the Michigan Department of Natural Resources asserts that there may be such an impact during the early period of March 21 to April 1. The Ninth Coast Guard District has adopted the U.S. Army Corps of Engineers EIS, EIS Supplements, and EIS studies on Operations, Maintenance, and Minor Improvements of the Federal Facilities

at Sault Ste. Marie, Michigan. In addition, the Coast Guard is preparing a supplement for the 1974 Ninth Coast Guard District EIS regarding icebreaking activity on the Great Lakes.

Economic Assessment and Certification

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 33 CFR Part 162

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, the Coast Guard amends Part 162 of Title 33, Code of Federal Regulations, as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for 33 CFR Part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 162.117 is amended by adding a new paragraph (g)(3) effective from March 13, 1997, through April 17, 1997, to read as follows:

§ 162.117 St. Marys River, Sault Ste. Marie, Michigan.

* * * * *

(g) * * *

(3) *Speed rules.* From March 13, 1997, through April 15, 1997, the following speed limits indicate the average speed over the ground between reporting points:

The speed limit between	Speed limit	
	Mph	Kts
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Light and Point Aux Frenes Light 21	14	12.2
Munuscong Channel Lighted Buoy 8 and Everns Point	10	8.7
Everns Point and Reed Point	7	6.0
Reed Point and Lake Nicolet Lighted Buoy 62	8	7.0
Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 80	10	8.7
Lake Nicolet Lighted Buoy 80 and West Neebish Channel Light 9 (downbound, West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Winter Point (West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Six Mile Point Range Rear Light	10	8.7
Six Mile Point Range Rear Light and lower limit of the St. Marys Falls Canal:		
Upbound	8	7.0
Downbound	10	8.7
Upper limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

* * * * *

Dated: March 13, 1997.

T.A. Trosvig,

Captain, U.S. Coast Guard, Commanding Officer, C.G. Group Sault.

[FR Doc. 97–7729 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP MIAMI–97–009]

RIN 2115–AA97

Safety Zone Regulations; Government Cut, Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone, in the vicinity of Government Cut, Miami, FL. The safety zone is needed to ensure the safety of mariners as well as the construction crew involved in drilling operations associated with the replacement of sewage lines buried beneath Government Cut. Entry into this zone by vessels 280 feet in length or larger is prohibited, unless specifically authorized by the Captain of the Port.

EFFECTIVE DATES: Effective dates and times are as follows. All times are local Eastern Standard Time or Eastern Daylight Savings Time, as appropriate. The regulations will be in effect from 6 p.m. on March 18, 1997 to 6 a.m. to March 19, 1997; from 6 p.m. on March 25, 1997 to 6 a.m. on March 26, 1997; from 6 p.m. on April 1, 1997 to 6 a.m. on April 2, 1997.

FOR FURTHER INFORMATION CONTACT: LT Carlos A. Torres, Coast Guard Marine Safety Office Miami, at (305) 535–8744.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Miami-Dade Water and Sewer Department is proposing to construct a new 60″ sanitary sewer force main under Government Cut. The proposed construction technique is microtunneling. This technique will allow the force main to be built as a tunnel, thereby minimizing future disruption of marine traffic in Government Cut. The project consists of 10 geotechnical borings, 90 feet in depth, in alignment between south Miami Beach, FL and Fisher Island, FL. This safety zone is established in the Port of Miami's Government Cut navigation channel, and consists of the area west of buoy #14 and east of buoy #16. The safety zone is needed to ensure the safety of mariners as well as construction crew involved in drilling operations associated with the replacement of sewage lines buried beneath Government Cut. Entry into this safety zone for vessels 280 feet in length or larger is prohibited, unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Less than 60 days advance notice was provided to the Coast Guard concerning the planned drilling operations. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to ensure the safe development of the project.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs

and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedure of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small Entities'' include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities because the regulations will only affect larger vessels for three nights in a limited area.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2(34)(g) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. An environmental analysis checklist and categorical exclusion determination have been completed and have been filed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Safety Zone Regulation

In consideration of the foregoing, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary § 165.T07–009 is added to read as follows:

§ 165.T07–009 Safety Zone; Government Cut, Miami, Florida

(a) *Location.* The following area is a Safety Zone: Waters within Government Cut channel west of buoy #14 and east of buoy #16.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone by vessels 280 feet in length or larger is prohibited except as authorized by the Captain of the Port. The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Effective dates.* This section becomes effective from 6 p.m. on March 18, 1997 to 6 a.m. on March 19, 1997, and again from 6 p.m. on March 25, 1997 to 6 a.m. on March 26, 1997, and again from 6 p.m. on April 1, 1997 to 6 a.m. on April 2, 1997.

Dated: March 13, 1997.

D.F. Miller,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 97–7732 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CCGD08–97–008]

RIN 2115–AE84

Regulated Navigation Area Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area in the Lower Mississippi River from Vicksburg, MS to Mile 88 above Head of Passes on the Mississippi River. The regulated navigation area is needed to protect vessels, bridges, shoreside facilities and the public from a safety hazard created by high water and resulting flooding along the Lower Mississippi River. Downbound barge traffic is prohibited unless it is in compliance with this regulation.

EFFECTIVE DATES: This regulation is effective from 8:30 p.m. on March 18, 1997 and terminates at 12 p.m. on April 5, 1997.

FOR FURTHER INFORMATION CONTACT: CDR Harvey R. Dexter, Marine Safety Division, USCG Eighth District at New Orleans, LA (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The velocities of river currents on the Lower Mississippi River are approaching an all time high. Several very recent vessel allisions with bridges have been caused by strong currents and eddies resulting from these flood conditions on the Lower Mississippi River. Consequently, the Commander, Eighth Coast Guard District has identified a need to place horsepower and other operating restrictions on tow boats downbound on the Mississippi River to assure adequate safe power for navigation. This emergency Temporary Regulated Navigation Area extends from one mile above the Interstate 20 Highway Bridge at Vicksburg, Mississippi (Lower Mississippi River Mile 437), to Algiers Cutoff Canal at Mile 88 above Head of Passes. Downbound tows shall be restricted as follows:

(a) Tow boats with a brake horsepower of 7,400 (7,400 bhp) and greater shall be limited to a 25 barge tow.

(b) Tow boats with a brake horsepower of 6,000 (6,000 bhp), but less than 7,400 bhp, shall be limited to a 20 barge tow.

(c) For all other tows the following minimum brake horsepower requirements apply:

1. Loaded standard size dry cargo barges (195′ by 35′) traveling southbound: 300 brake horsepower per barge minimum.

2. For all other loaded dry cargo barges and all loaded liquid barges southbound: One brake horsepower minimum for each 5 deadweight tons of cargo.

3. For tows consisting of empty standard size dry cargo barges traveling southbound at Algiers Point: 200 brake horsepower per barge.

4. For tows containing mixed empty and loaded barges, the higher, loaded, brake horsepower standard applies (300 brake horsepower).

(d) For tows of 20 barges or larger, downbound transit through the Baton Rouge Railroad and Highway Bridge, also known as the Highway 190 Bridge, is restricted to daylight only.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent downbound towing vessels from alliding with bridges and shoreside structures, and colliding with other vessels, causing danger to the public.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictional with populations of less than 50,000. Small entities in this case could include small towing companies who may be affected by this rule. Although this rule places nighttime restrictions for tows transiting the Baton Rouge Railroad and Highway Bridge, these restrictions are limited to tows of 20 or more barges and operators may reduce the size of their tows to transit those areas. No other restrictions on transit are imposed so long as the horsepower requirements are met. These horsepower requirements are consistent with accepted industry practice and the actions of a prudent mariner under the circumstances. This rule is deemed to *not* have a substantial economic impact.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2.(g)(5) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and recordkeeping requirements, Safety Measures, and Waterways.

Final Regulations

For the reasons set out in a the preamble the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 46 CFR 1.46.

2. A new temporary § 165.T08–001 is added to read as follows:

§ 165.T08–001 Regulated Navigation Area; Mississippi River

(a) Location: The following area is a regulated navigation area:

All waters of the Mississippi River from one mile above the Interstate 20 Highway Bridge at Vicksburg, MS (Lower Mississippi River Mile 437 to Mile 88 above Head of Passes.

(b) Regulations:

(1) In accordance with general regulations in Section § 165.11 of this part, no downbound towboat with tow may operate within the regulated navigation area contrary to this regulation.

(2) Tow boats with a brake horsepower of 7,400 (7,400 bhp) and greater shall be limited to a 25 barge tow.

(3) Tow boats with a brake horsepower of 6,000 (6,000 bhp), but less than 7,400 bhp shall be limited to a 20 barge tow.

(4) For all other tows the following minimum brake horsepower requirements apply:

(i) Loaded standard size dry cargo barges (195′ by 35′) traveling southbound: 300 brake horsepower per barge minimum.

(ii) For other loaded dry cargo barges and all loaded liquid barges southbound: one break horsepower minimum for each 5 deadweight tons of cargo.

(iii) For tows consisting of empty standard size dry cargo barges traveling southbound at Algiers Point: 200 brake horsepower per barge.

(iv) For tows containing mixed empty and loaded barges, the higher, loaded, brake horsepower standard apply (300 brake horsepower).

(5) For tows of 20 barges or larger, downbound transit through the Baton Rouge Railroad and Highway Bridge, also known as the Highway 190 Bridge, is restricted to daylight only.

(6) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) Effective dates: This section is effective at 8:30 p.m. on March 18, 1997 and terminates at 12 p.m. on April 5, 1997.

Dated: March 18, 1997.

Paul J. Prokop,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District, Acting.

[FR Doc. 97–7731 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 206, 231, 235, 369, 371, 373, 375, 376, 378, 380, 381, 385, 386, 387, 388, 389, 390, 396, 610, 612, and 630

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice of interpretation for fiscal year 1997 grant competitions.

SUMMARY: The Secretary interprets and clarifies the applicability to fiscal year 1997 grant competitions of final regulations amending the Education Department General Administrative Regulations (EDGAR) governing discretionary grant programs. The Secretary takes this action to explain the limited circumstances under which a program may use the selection criteria formerly available under EDGAR.

EFFECTIVE DATE: March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Margo Anderson, U.S. Department of

Education, 555 New Jersey Avenue, NW., Washington, D.C. 20208-5530. Telephone: (202) 219–2005. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 6, 1997, the Secretary published final regulations amending EDGAR to improve the selection criteria governing discretionary grant programs administered directly by the Department (62 FR 10398). The effective date for these final regulations is April 7, 1997. However, some of the Department's grant programs, in preparing application notices, planned to use the pre-existing selection criteria for fiscal year 1997 awards. The Secretary did not intend that these competitions be required to use the new EDGAR selection criteria in fiscal year 1997. The Secretary therefore issues this interpretation of the applicability of the revised regulations. If a program publishes an application notice prior to April 7, 1997, for awards to be made after that date, the program may use the revised EDGAR selection criteria, or may use the prior EDGAR criteria.

Waiver of Public Comment

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Public comment was previously taken on the existing and revised selection criteria in 34 CFR Part 75 that are the subject of this notice. Moreover, this notice interprets the applicability of the respective selection criteria to grant awards for fiscal year 1997. Therefore, public comment is not required under 5 U.S.C. 553(b)(A). Since this notice corrects an error in failing to explain the applicability of the revised regulations, public comment also is unnecessary under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the requirement in 5 U.S.C. 553(d) for a 30-day delayed effective date.

Dated: March 24, 1997.

Judith A. Winston,

General Counsel.

[FR Doc. 97–7813 Filed 3–26–97; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184–0031a FRL–5709–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. This action is an administrative change which revises the definition of volatile organic compounds (VOC) and updates the Exempt Compound list in rules from the San Diego County Air Pollution Control District (SDCAPCD). The intended effect of approving this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SDCAPCD rules to be consistent with the revised federal and state VOC definitions.

DATES: This action is effective on May 27, 1997 unless adverse or critical comments are received by April 28, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's evaluation report for these rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, CA 92123.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rules with definition revisions being approved into the California SIP include the following San Diego County Air Pollution Control District Rules: Rule 2, Definitions; Rule 67.0, Architectural Coatings; Rule 67.1, Alternative Emission Control Plans; Rule 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvents; Rule 67.3, Metal Parts and Products Coating Operations; Rule 67.5, Paper, Film, and Fabric Coating Operations; Rule 67.7, Cutback and Emulsified Asphalts; Rule 67.12, Polyester Resin Operations; Rule 67.15, Pharmaceutical and Cosmetic Manufacturing Operations; 67.16, Graphic Arts Operations; Rule 67.17, Storage of Materials Containing Volatile Organic Compounds; Rule 67.18, Marine Coating Operations; and Rule 67.24, Bakery Ovens. These rules were submitted by the California Air Resources Board to EPA on October 18, 1996.

Background

On June 16, 1995 (60 FR 31633) EPA published a final rule excluding acetone from the definition of VOC. On February 7, 1996 (61 FR 4588) EPA published a final rule excluding perchloroethylene from the definition of VOC. On May 1, 1996 (61 FR 19231) EPA published a proposed rule excluding HFC 43–10mee and HCFC 225ca and cb from the definition of VOC. These compounds were determined to have negligible photochemical reactivity and thus, were added to the Agency's list of Exempt Compounds.

The State of California submitted many revised rules for incorporation into its SIP on October 18, 1996, including the rules being acted on in this administrative action. This action addresses EPA's direct-final action for SDCAPCD Rule 2, Definitions; Rule 67.0, Architectural Coatings; Rule 67.1, Alternative Emission Control Plans; Rule 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvents; Rule 67.3, Metal Parts and Products Coating Operations; Rule 67.5, Paper, Film, and Fabric Coating Operations; Rule 67.7, Cutback and Emulsified Asphalts; Rule 67.12, Polyester Resin Operations; Rule 67.15, Pharmaceutical and Cosmetic Manufacturing Operations; Rule 67.16, Graphic Arts Operations; Rule 67.17, Storage of Materials Containing Volatile Organic Compounds; Rule 67.18, Marine Coating Operations; and Rule 67.24, Bakery Ovens. These rules were adopted by SDCAPCD on May 15, 1996 and were found to be complete on December 19, 1996, pursuant to EPA's

completeness criteria that are set forth in 40 CFR part 51, Appendix V [1] and are being finalized for approval into the SIP.

This administrative revision adds acetone, perchloroethylene, HFC 43–10mee and HCFC 225ca and cb to the list of compounds which make a negligible contribution to tropospheric ozone formulation. Thus, EPA is finalizing the approval of the revised definitions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA or the Act).

EPA Evaluation and Action

This administrative action is necessary to make the VOC definition in SDCAPCD rules consistent with federal and state definitions of VOC. This action will result in more accurate assessment of ozone formation potential, will remove unnecessary control requirements and will assist States in avoiding exceedences of the ozone health standard by focusing control efforts on compounds which are actual ozone precursors.

The SDCAPCD rules being affected by this action to revise the definition of VOC include:

- Rule 2 Definitions.
- Rule 67.0 Architectural Coatings.
- Rule 67.1 Alternative Emission Control Plans.
- Rule 67.2 Dry Cleaning Equipment Using Petroleum-Based Solvents.
- Rule 67.3 Metal Parts and Products Coating Operations.
- Rule 67.5 Paper, Film and Fabric Coating Operations.
- Rule 67.7 Cutback and Emulsified Asphalts.
- Rule 67.12 Polyester Resin Operations.
- Rule 67.15 Pharmaceutical and Cosmetics Manufacturing Operations.
- Rule 67.16 Graphic Arts Operations.
- Rule 67.17 Storage of Materials Containing Volatile Organic Compounds.
- Rule 67.18 Marine Coating Operations.
- Rule 67.24 Bakery Ovens.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 27, 1997, unless, by April 28, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 27, 1997.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Dated: February 26, 1997.

John Wise,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(241) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(241) New and amended regulations for the following APCD were submitted on October 18, 1996 by the Governor's designee.

(i) Incorporationed by reference.

(A) San Diego County Air Pollution Control District.

(*1*) Rules 2, Definitions; 67.0, Architectural Coatings; 67.1, Alternative Emission Control Plans; 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvents; 67.3, Metal Parts and Products Coating Operations; 67.5, Paper, Film, and Fabric Coating Operations; 67.7, Cutback and Emulsified Asphalts; 67.12, Polyester Resin Operations; 67.15, Pharmaceutical and Cosmetic Manufacturing Operations; 67.16, Graphic Arts Operations; 67.17, Storage of Materials Containing Volatile Organic Compounds; 67.18, Marine Coating Operations; and 67.24, Bakery Ovens, adopted on May 15, 1996.

* * * * *

[FR Doc. 97–7690 Filed 3–26–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[ME048–1–6997a; FRL–5802–3]

Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; States of Maine and New Hampshire

AGENCY: United States Environmental Protection Agency (USEPA or Agency).

ACTION: Direct final rule.

SUMMARY: The USEPA announces its decision to correct the ozone designations for the Sullivan and Belknap counties, New Hampshire nonattainment areas, and the portions of Oxford, Franklin and Somerset counties in Maine designated nonattainment. The USEPA is publishing the designation correction of these areas to attainment/unclassifiable for ozone, pursuant to section 110(k)(6) of the Clean Air Act (the Act), which allows the USEPA to correct its actions. The rationale for this approval is set forth in this final rule; additional information is available at the address indicated below. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of and soliciting public comment on this action. If adverse comments are received on this direct final rule, the USEPA will withdraw this direct final rule and address the comments received in a subsequent final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. No additional opportunity for public comment will be provided. Unless this direct final rule is withdrawn no further rulemaking will occur on this action.

DATES: This action will be effective May 27, 1997 unless notice is received by April 28, 1997 that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., (CAA) Boston, MA 02203. Copies of EPA's technical support document are available for public inspection during normal business hours, by appointment at: Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333; and the New Hampshire Department of Environmental Services, 64 N. Main St., Concord, NH 03302.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., (CAQ) Boston, MA 02203. Phone: 617–565–3578.

SUPPLEMENTARY INFORMATION:

I. Background

1. Background for Sullivan and Belknap Counties, New Hampshire

Pursuant to the 1977 amendments to the Clean Air Act (Act), the USEPA designated nonattainment areas with respect to the 0.08 parts per million (ppm) photochemical oxidant National Ambient Air Quality Standard (NAAQS). For such areas, states submitted State Implementation Plans (SIPs) to control emissions and achieve attainment of the NAAQS. In New Hampshire, an area named the Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region (AQCR 121) was designated as nonattainment for photochemical oxidants on March 3, 1978 (43 FR 9013). On February 8, 1979 (44 FR 8202), the USEPA revised the NAAQS from 0.08 ppm to 0.12 ppm and the regulated pollutant from photochemical oxidants to ozone. Subsequently, on May 29, 1979, New Hampshire submitted a revised analysis which considered the change in the NAAQS and its affect on nonattainment designations (hereinafter referred to as ''the May 1979, New Hampshire submittal'').

The May 1979, New Hampshire submittal requested that the New Hampshire portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR be designated nonattainment, even though the Federal ozone standard had changed, and there were no ozone monitoring data from the relevant portions of the AQCR. EPA approved the request on April 11, 1980 (45 FR 24869). AQCR 121 includes Belknap and Sullivan counties, along with other areas in both New Hampshire and Massachusetts whose attainment classification and status will be unchanged by this technical correction.

The May 1979, New Hampshire submittal was based on the revised Federal ozone standard of 0.12 ppm. Unfortunately, New Hampshire did not know the full extent of its ozone nonattainment problems, because, there were no monitors in either Belknap or Sullivan counties. Ozone monitors for AQCR 121 existed only in Keene, Manchester, Nashua, and Portsmouth during the period from 1973 to 1978. These sites did experience exceedances of the 0.12 ppm standard, but none are close enough to either Belknap or Sullivan county to indicate their air quality.

Upon the date of enactment of the 1990 amendments to the Clean Air Act, the New Hampshire portion of AQCR 121 retained its designation of nonattainment by operation of law pursuant to section 107(d). Pursuant to the section 181(a), nonattainment areas were further classified based on their monitored design value, as marginal, moderate, serious, severe or extreme. The nonattainment areas in New Hampshire were split into several

nonattainment areas and classified as follows: (1) the Portsmouth-Dover-Rochester area as serious, (2) the New Hampshire portion of the Boston-Lawrence-Worcester area as serious, (3) the Manchester area as marginal, and (4) Sullivan, Cheshire and Belknap counties, remained nonattainment with incomplete data. *See* 56 FR 56694, November 6, 1991.

2. Background for Portions of Franklin, Oxford and Somerset Counties, Maine

Pursuant to the 1977 amendments to the Clean Air Act (Act), an area in Maine named the Androscoggin Valley Interstate Air Quality Control Region (AQCR 107) was designated as nonattainment for photochemical oxidants by USEPA. On February 8, 1979 (44 FR 8202), the USEPA revised the NAAQS from 0.08 ppm to 0.12 ppm and the regulated pollutant from photochemical oxidants to ozone. Subsequently, on April 19, 1979 Maine submitted a revised analysis which considered the change in the NAAQS and its effects on designations (hereinafter referred to as ''the April, 1979 Maine submittal'').

The April 1979, Maine submittal requested that the Maine portion of the Androscoggin Valley Interstate AQCR be designated nonattainment, even though the Federal ozone standard had changed and no ozone monitoring data existed for the relevant portion of the AQCR. It is worth noting that Maine retained its own state standard to be 0.08 ppm ozone not to be exceeded more than once per year.[1] The USEPA approved the request for the AQCR to be designated nonattainment on February 19, 1980 (45 FR 10766). AQCR 107 includes portions of Oxford, Somerset and Franklin counties, along with other areas in both Maine and New Hampshire whose attainment classification and status will be unchanged by this technical correction.

Ambient ozone data for the State of Maine in the 1970's was severely limited. There were not any monitors in either of the three counties. An ozone monitor in Maine for AQCR 107 did exist in the Town of Unity for a short period in 1977. This site did not experience an exceedance of the 0.12 Federal ppm ozone standard, which is the applicable standard under the Act for the purposes of designating the federal attainment status of areas under Section 107.

Upon the date of enactment of the 1990 amendments to the Clean Air Act, the areas that make up AQCR 107 retained their designation of nonattainment by operation of law pursuant to section 107(d). Nonattainment areas were further classified based on their monitored design value, pursuant to section 181(a), as marginal, moderate, serious, severe or extreme. The areas in Maine in AQCR 107 were split up and joined with other areas to form several nonattainment areas which were classified as follows: the Knox and Lincoln counties area as moderate, the Lewiston-Auburn area as moderate (which is Androscoggin and Kennebec counties), the Hancock and Waldo counties area as marginal, and portions of Oxford, Franklin and Somerset counties, remained nonattainment with incomplete data. *See* 56 FR 56694, November 6, 1991.

II. Summary of This Action

Section 110(k)(6) of the Clean Air Act provides the USEPA with the authority to correct designation determinations made in error.[2] The USEPA interprets Section 110(k)(6) to authorize the Agency to make corrections to a promulgated regulation when it is shown to EPA's satisfaction that:

(1) EPA clearly erred in failing to consider or inappropriately considered information made available to EPA at the time of the promulgation; or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate; *and;*

(2) other information persuasively supports a change in the regulation 57 FR 56763 (November 30, 1992)

The USEPA's earlier action approving the retention of the nonattainment designations for the Belknap and Sullivan counties in New Hampshire was in error. That action was based on the State's May 29, 1979 submittal. The USEPA believes that the information submitted by New Hampshire in the May, 1979 submittal did not provide enough data to designate these two areas nonattainment for ozone because it did not contain in-county ozone monitoring data showing violations of the 0.12 ppm NAAQS. Furthermore, in-county monitoring data collected from 1991–1996 in the Sullivan County nonclassifiable areas do not demonstrate violations of the 0.12 ppm NAAQS.

The USEPA hereby determines that the information available at the time of the designation was clearly inadequate, and that the in-county monitoring data available since the original designation persuasively support a change in the designations. The USEPA is correcting this error by correcting the designations for these areas to attainment/unclassifiable.

Similarly, the USEPA's action approving the retention of the nonattainment designations for the portions of Oxford, Somerset and Franklin counties in Maine designated nonattainment was also in error. The USEPA's action was based on the April 19, 1979 Maine submittal. The USEPA believes that the information submitted by Maine was insufficient to designate these three areas nonattainment for ozone because it did not contain ozone monitoring data showing violations of the 0.12 ppm NAAQS. Furthermore, in-county monitoring data from 1991–1996 collected in those counties do not show violations of the 0.12 ppm federal NAAQS. Since the information available at the time of the designation was clearly inadequate and in-county monitoring data support a change in the designations, the USEPA is correcting this error by correcting the designations for these areas to attainment/unclassifiable.

In order to demonstrate a violation of the ozone NAAQS, the average annual number of expected exceedances of the NAAQS must be greater than 1.0 per calendar year. (See 40 CFR 50.9.) The USEPA reviewed the basis of the original ozone designation for these five areas. Ambient air quality monitoring data for ozone was retrieved from the Aerometric Information Retrieval System (AIRS). The USEPA found that none of the five nonattainment nonclassifiable areas in New Hampshire and Maine ever had ozone monitoring data above 0.12 ppm. More information, including the AIRS ozone data report for these areas and the Technical Support Document (TSD), is located in the docket for this rulemaking.

III. Rulemaking Action

Pursuant to section 110(k)(6) of the Clean Air Act (the Act), which allows the USEPA to correct its actions, the USEPA is promulgating a correction to the designation status of the Sullivan and the Belknap counties, New Hampshire nonattainment areas, and the portions of Oxford, Franklin and Somerset counties in Maine designated nonattainment. The public should be advised that this action is effective May

[1] The Maine Legislative has since set Maine's health based ozone standard to be equivalent to the Federal standard.

[2] It states: CORRECTIONS—Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

27, 1997. However, if notice is received by April 28, 1997 that someone submits adverse or critical comments, this action will be withdrawn, and a subsequent final rule will be published which will address the comments received.

The USEPA is publishing a separate document in today's issue of the **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revisions and clarifies this rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on May 27, 1997, unless the USEPA receives adverse or critical comments by April 28, 1997.

If the USEPA receives comments adverse to or critical of the approval discussed above, the USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the USEPA hereby advises the public that this action will be effective on May 27, 1997.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

Under E.O. 12866 (58 FR 51735, Oct. 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, the USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, the USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Correction of designation status of these areas to attainment under section 110(k)(6) of the Clean Air Act does not impose any new requirements on small entities. Correction of designation status is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore I certify that the approval of the redesignation request does not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that this correction action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the USEPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 19, 1997.

Carol M. Browner,

Administrator.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

2. In § 81.320 the ozone table is amended by revising entries for ''Franklin County Area'', ''Oxford County Area'', and ''Somerset County Area'' to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Franklin County Area				
Franklin County (part)	May 27, 1997	Unclassifiable/Attainment		
* * * * * * *				
Oxford County Area				

MAINE—OZONE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Oxford County (part)	May 27, 1997	Unclassifiable/Attainment		
* * * * * * *				
Somerset County Area				
Somerset County (part)	May 27, 1997	Unclassifiable/Attainment		
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

2. In § 81.330 the ozone table is amended by revising entries for ''Belknap County'' and ''Sullivan County'' to read as follows:

§ 81.330 New Hampshire.

* * * * *

NEW HAMPSHIRE—OZONE

Designated areas	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Belknap County	May 27, 1997	Unclassifiable/Attainment		
* * * * * * *				
Sullivan County	May 27, 1997	Unclassifiable/Attainment		
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 97–7628 Filed 3–26–97; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[Docket No. 960612172–7054–02; I.D. 011697A]

RIN 0648–A121

Fisheries of the Northeastern United States; Technical Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to correct and clarify 50 CFR part 648, which contains regulations implementing the fishery management plans (FMPs) for: Summer flounder, scup, and black sea bass; Atlantic sea scallops; Northeast multispecies; Atlantic surf clams and ocean quahogs; Atlantic mackerel, squid, and butterfish; and Atlantic salmon. During the consolidation of these FMPs into one part (50 CFR part 648), unintended omissions and changes were made. This document corrects those errors.

EFFECTIVE DATE: March 24, 1997.

FOR FURTHER INFORMATION CONTACT: Mary M. Tokarcik, Fisheries Management Specialist, 508–281–9326.

SUPPLEMENTARY INFORMATION: On July 3, 1996 (61 FR 34966), NMFS published a final rule that incorporated six separate CFR parts (50 CFR parts 625, 650, 651, 652, 655, and 657) into 50 CFR part 648. Subsequently, regulations implementing the scup and black sea bass FMPs were added to this part. In addition, 50 CFR parts 600, 601, 602, 603, 605, 611, 619, 620, and 621 were consolidated into 50 CFR part 600. These consolidations were called for under President Clinton's Regulatory Reinvention Initiative for comprehensive regulatory reform. Because 50 CFR part 648 was prepared concurrent with the implementation of Amendment 7 to the Northeast Multispecies Fisheries Management Plan, many changes from the proposed rule to the final rule implementing Amendment 7 were not included in the consolidated document. Also, errors occurred during the consolidation of 50 CFR parts 600 and 648 in references and dates and through unintended omissions and inclusions. This rule makes these corrections and clarifies sections of the regulations as follows:

In 50 CFR 600.10, the definition for ''area of custody'' is added.

In § 648.2, the definition for ''Multispecies Monitoring Committee'' is revised to clarify that no more than two state representatives can be appointed from all of the affected states.

In § 648.2, the scientific name for redfish is changed to *Sebastes fasciatus*.

In § 648.2, the definition for ''Prior to leaving port'' is revised to clarify when a vessel must begin a days-at-sea (DAS) trip under the call-in requirement. Also, the phrase ''with respect to the call-in notification for NE multispecies'' is revised to clarify that the definition is also applicable to scallop DAS vessels.

In § 648.2, the definition for ''Target Total Allowable Catch'' is put in alphabetical order.

In § 648.4(a)(1)(i)(E)(*2*), the assumptions for establishing net tonnage (NT) and gross registered tonnage (GRT) for vessels that are not required to be documented are in error and are removed.

In § 648.4(a)(6)(i)(B)(*1*), the deadline for application for the scup moratorium

permit is incorrect and is changed to ''September 23, 1997.''

In § 648.4(c)(2)(ii) (A) and (B), the reference to ''May 1, 1996,'' is incorrect and is changed to ''July 1, 1996.''

In § 648.7(f)(2), the last sentence is removed to reflect that annual reports of fishing vessel log reports are not required.

In § 648.9(e), the reference to paragraph ''(a)(1)'' is corrected to read ''(a).''

In § 648.10, the headings for the table containing the coordinates for the VTS Demarcation Line are corrected.

In § 648.10, all references to the call-in requirements for charter/party vessels are removed, paragraph (e) is removed, and paragraph (f) is redesignated as paragraph (e). The charter/party vessel call-in requirements proposed in Amendment 7 to the Northeast Multispecies FMP were disapproved. The requirement for maintenance of confirmation numbers used in the DAS call-in notification program was revised in the Northeast Multispecies FMP Amendment 7 final rule. This change was omitted during the consolidation and is now made to § 648.10(c)(2).

In § 648.10(b), the first reference to ''§ 649.9(a)'' is corrected to read ''§ 648.10(d).''

In § 648.10(c)(3), the reference to the DAS accounting method for vessels fishing with gillnet gear that was disapproved in Amendment 7 to the Northeast Multispecies FMP is removed.

In § 648.10(c)(5), the references to ''§ 648.83'' and ''paragraph (b)'' are corrected to read ''§ 648.89,'' and ''paragraph (c),'' respectively.

In § 648.10, in the newly redesignated paragraph (e), the reference to paragraph ''(b)'' is corrected to read ''(b)(1).''

In § 648.10(f), which was inadvertently excluded during the consolidation, is added to describe the call-in requirement for multispecies vessels, subject to the 20-day spawning season restrictions of § 648.82(g).

In § 648.14, all references to the metric conversion for 50 bu were incorrectly identified as ''176.2 L,'' and are corrected to read ''17.62 hl.''

In § 648.14(a)(19), the reference to ''§ 648.75(t)(1)(iii)'' is corrected to read ''§ 648.75(h).''

In § 648.14(a)(37), the reference to ''§ 648.8(c)(3)'' is corrected to read ''§ 648.80(c)(3).''

In § 648.14(a)(40), the reference to ''§ 648.81(d)(2)'' is corrected to read ''§ 648.81(d).''

In § 648.14 (a)(43), (a)(48), (a)(50), and (c)(6) are made more explicit by naming the provisions indicated in the cross references.

Letters of authorization given to vessels that appeal the denial of a limited access scallop permit are no longer applicable, because the appeal process is completed. Therefore, the reference to such letters is removed from § 648.14(a)(57)(i).

In § 648.14(a)(86), the deadline for selling or transferring scup is corrected to read ''January 1, 1997.''

In § 648.14, paragraphs (a) (96) and (97) were omitted during the consolidation, and are added.

In § 648.14(c)(7), the reference to ''§ 648.8'' is corrected to read ''§ 648.86(a) and § 648.82(b)(3).''

The winter flounder possession limit proposed in Amendment 7 to the NE Multispecies FMP was disapproved. Section 648.14(c)(10), which refers to this disapproved limit, is removed.

In § 648.14(d)(3), the reference to ''§ 648.86(a)(2)'' is corrected to read ''§ 648.88(a)(2).''

In § 648.14(d)(4), the prohibition concerning the violation of the open access handgear vessel provisions, which was inadvertently omitted during the consolidation, is added.

In § 648.14(h)(9), the reference to ''§ 648.51(a)(2)(iii)'' is corrected to read ''§ 648.51(a)(2)(ii).''

In § 648.14, paragraph (r) is a duplicate of paragraph (n). Paragraph (r) is removed and reserved.

In § 648.14(x)(1)(iii), the reference to ''§ 648.70(d)(2)'' is corrected to read ''§ 648.70(b).''

The paragraph on radio hails, which was present in the final rule of Amendment 7, was omitted from § 648.15, and is added.

In § 648.23(b)(3)(ii), the requirement to remove leg wires from a net during stowage is removed to reflect that the Regional Administrator has already eliminated the requirement pursuant to § 648.23(b)(4).

Throughout subpart D, the metric conversion for ''50 bu'' is corrected to read ''17.62 hl.''

In § 648.54(a), reference to ''§ 648.54(c)'' is corrected to read ''§ 648.53(b);'' in paragraph (b)(1), the reference to ''§ 648.53(c)'' is corrected to read ''§ 648.53(c);'' and in paragraph (c), the reference to paragraph ''(b)'' is corrected to read ''(b)(1)'' and the reference to ''§ 648.10(f)'' is corrected to read ''§ 648.10(e).''

In § 648.73(a), errors exist in the notation of coordinate points and are corrected.

In the introductory paragraph for § 648.80, the vessels required to comply with multispecies requirements in the Gulf of Maine/Georges Bank area are clarified.

In § 648.80, the title for paragraph (a)(2)(iii) is changed to ''Other Exemptions'' and the paragraph is revised to clarify that vessels fishing with an open access charter/party or hand gear permit are included in this exemption.

The dates for the northern shrimp season are set annually by the Atlantic States Marine Fisheries Commission and are removed from § 648.80(a)(3)(iii).

In § 648.80(a)(5), the authorization to use 6-inch (15.24-cm) diamond mesh in the Stellwagen Bank/Jeffreys Ledge Juvenile Protection Area is incorrect and, therefore, is eliminated.

In § 648.80, paragraph (a)(7)(iv) is clarified to reflect that this section covers bycatch in exempted fisheries.

In § 648.80(a)(7)(iv)(D), the reference to ''(a)(10)'' is corrected to read ''§ 648.80(b).''

In § 648.80, the heading for paragraph (b)(2)(iii) is changed to ''Other Exemptions'' and the paragraph is revised to clarify that vessels fishing with an open access charter/party or hand gear permit are included in this exemption.

In § 648.80, paragraph (b)(3)(i) is revised to clarify that dogfish are exempted in the area only when caught with trawl gear.

In § 648.80(c)(1), the definition of the Mid-Atlantic Regulated Mesh Area is revised to reflect a change that was made in the final rule for Amendment 7 to the NE multispecies FMP.

In § 648.80(c)(2)(i), the reference to paragraph (c)(3) is incorrect and is removed.

In § 648.82(b)(1)(ii), vessels issued multispecies limited access gillnet permits are incorrectly included. In paragraph (b)(2)(ii), these vessels are inadvertently excluded. These paragraphs are revised accordingly.

In § 648.82(b)(4)(i), the proration factor for the 1996 DAS allocation is incorrectly identified as ''0.83'' and is revised to read ''0.833.''

In § 648.82(b)(4)(ii), the reference to ''§ 648.4(a)(1)(ii)'' is corrected to read ''§ 648.4(a)(1)(i).''

In § 648.82, paragraph (b)(6)(i) omits the requirement that a vessel in this category must fish in this category for the entire year. This paragraph is revised accordingly.

The cutoff date for the receipt of appeal of a vessel DAS allocation given in § 648.82(d)(2)(i) is corrected to read ''August 31, 1996.''

In § 648.82(g), all references to ''fishing year'' are changed to ''calendar year''. Additionally, the paragraph is rewritten to be consistent with the final rule implementing NE Multispecies Amendment 7, to explain the operation of the spawning season requirement during the transition to these new requirements.

In § 648.86, paragraph (a)(2)(iii) is rewritten to clarify that combination vessels fishing under a multispecies DAS are not restricted under the haddock possession restriction for scallop dredge vessels.

In § 648.86, paragraph (b) refers to the disapproved winter flounder possession restrictions for the MA regulated mesh area, and is removed. Paragraph (c) of this section is redesignated paragraph (b).

In § 648.90(a)(3), the reference to ''(a)(5)'' is corrected to read ''(a)(6).''

In § 648.100(b)(8), the references to ''(a)(8) and (10)'' are corrected to read ''(a).''

The introduction to § 648.106 omits the word ''fishery'' when describing the summer flounder fishery, and this word is added.

Throughout the document, the words ''Regional Director'' are changed to ''Regional Administrator.'' This title was changed with the restructuring of NMFS on August 19, 1996.

Classification

Because this rule only corrects omissions and other errors, removes provisions that are no longer applicable, and clarifies an existing set of regulations for which full prior notice and opportunity for comment was provided under 5 U.S.C. 553(b)(B), it is unnecessary to provide such procedures for this rule. Because this rule only corrects, clarifies and removes no longer applicable provisions, and imposes no new requirements on anyone subject to these regulations, under 5 U.S.C. 553(d)(3) it is not subject to a 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

List of Subjects

50 CFR Part 600

Fisheries, Fishing.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 20, 1997.

C. Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600 and 648 are amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 600.10, the definition for ''Area of custody'' is added in alphabetical order to read as follows:

§ 600.10 Definitions.

* * * * *

Area of custody means any vessel, building, vehicle, live car, pound, pier or dock facility where fish might be found.

* * * * *

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

3. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 648.2, the definitions for ''Multispecies Monitoring Committee'', ''Northeast (NE) multispecies or multispecies'', and ''Prior to leaving port'' are revised to read as follows:

§ 648.2 Definitions.

* * * * *

Multispecies Monitoring Committee means a team of scientific and technical staff appointed by the NEFMC to review, analyze, and recommend adjustments to the measurement measures. The team consists of staff from the NEFMC and the MAFMC, NMFS Northeast Region Office, NEFSC, the USCG, an industry representative, and no more than two representatives, appointed by the Commission, from affected states.

* * * * *

Northeast (NE) multispecies or multispecies means the following species:

American plaice—Hippoglossoides platessoides.
Atlantic cod—Gadus morhua.
Haddock—Melanogrammus aeglefinus.
Ocean Pout—Macrozoarces americanus.
Pollock—Pollachius virens.
Redfish—Sebastes fasciatus.
Red hake—Urophycis chuss.
Silver hake (whiting)—Merluccius bilinearis.
White hake—Urophycis tenuis.
Windowpane flounder—Scophthalmus aquosus.
Winter flounder—Pleuronectes americanus.
Witch flounder—Glyptocephalus cynoglossus.
Yellowtail flounder—Pleuronectes ferrugineus.

* * * * *

Prior to leaving port means prior to departing from the last dock or mooring in port to engage in fishing, including the transport of fish to another port.

* * * * *

5. In § 648.4, paragraphs (a)(1)(i)(E)(*2*), (a)(6)(i)(B)(*1*), (c)(2)(ii)(A), and (c)(2)(ii)(B) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(1) * * *

(i) * * *

(E) * * *

(*2*) The replacement vessel's length, GRT, and NT may not exceed by more than 10 percent the length, GRT, and NT of the vessel that was initially issued a limited access permit as of the date the initial vessel applied for such permit.

* * * * *

(6) * * *

(i) * * *

(B) * * * (*1*) No one may apply for an initial scup moratorium permit after September 23, 1997.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) If the engine horsepower was changed or a contract to change the engine horsepower had been entered into prior to July 1, 1996, such that it is different from that stated in the vessel's most recent application for a Federal fisheries permit before July 1, 1996, sufficient documentation to ascertain the different engine horsepower. However, the engine replacement must be completed within 1 year of the date on which the contract was signed.

(B) If the length, GRT, or NT was changed or a contract to change the length, GRT, or NT had been entered into prior to July 1, 1996, such that it is different from that stated in the vessel's most recent application for a Federal fisheries permit, sufficient documentation to ascertain the different length, GRT, or NT. However, the upgrade must be completed within 1 year from the date on which the contract was signed.

* * * * *

6. In § 648.7, paragraph (f)(2) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(f) * * *

(2) *Fishing vessel log reports.* Fishing log reports must be received or postmarked, if mailed, within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which reports are to be submitted, shortly after receipt of a Federal fisheries permit. If no fishing trip is made during a month, a report stating so must be submitted.

* * * * *

7. In § 648.9, paragraph (e) is revised to read as follows:

§ 648.9 VTS requirements.

* * * * *

(e) *Replacement.* Should a VTS unit require replacement, a vessel owner must submit documentation to the Regional Administrator, within 3 days of installation and prior to the vessel's next trip, verifying that the new VTS unit is an operational, approved system as described under paragraph (a) of this section.

* * * * *

8. In § 648.10, in the table in paragraph (a), the column headings, and paragraphs (b) introductory text, (b)(1), (c)(1), (c)(2), (c)(3), and (c)(5) are revised, paragraph (e) is removed, paragraph (f) is redesignated as paragraph (e), the introductory text to newly redesignated paragraph (e) is revised, and new paragraph (f) is added to read as follows:

§ 648.10 DAS notification requirements.

(a) * * *

VTS DEMARCATION LINE

Description	N. Lat.	W. Long.

* * * * *

(b) *VTS Notification.* Multispecies vessels issued an Individual DAS or Combination Vessel permit, scallop vessels issued a full-time or part-time limited access scallop permit, or scallop vessels fishing under the small dredge program specified in § 648.51(e), or vessels issued a limited access multispecies or scallop permit and whose owners elect to fish under the VTS notification of this paragraph (b), unless otherwise authorized or required by the Regional Administrator under § 648.10(d), must have installed on board an operational VTS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has an operational VTS unit that meets those criteria. If a vessel has already been issued a limited access permit without providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VTS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to or have elected to use a VTS unit shall be subject to the following requirements and presumptions:

(1) Vessels that have crossed the VTS Demarcation Line specified under paragraph (a) of this section are deemed to be fishing under the DAS program, unless the vessel's owner, or authorized representative declares the vessel out of the scallop or NE multispecies fishery, as applicable, for a specific time period by notifying the Regional Administrator through the VTS prior to the vessel leaving port.

* * * * *

(c) * * *

(1) Prior to the vessel leaving port, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional Administrator and providing the following information: Owner and caller name and phone number, vessel's name and permit number, type of trip to be taken, port of departure, and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator.

(2) The vessel's confirmation numbers for the current and immediately prior multispecies fishing trip must be maintained on board the vessel and provided to an authorized officer upon request.

(3) Upon a vessel's return to port, the vessel owner or owner's representative must call the Regional Administrator and notify him/her that the trip has ended by providing the following information: Owner and caller name and phone number, vessel's name, port of landing and permit number, and that the vessel has ended a trip. A DAS ends when the call has been received and confirmation has been given by the Regional Administrator.

* * * * *

(5) Any vessel that possesses or lands per trip more than 400 lb (181.44 kg) of scallops, and any vessel issued a limited access multispecies permit subject to the DAS program and call-in requirement that possesses or lands regulated species, except as provided in § 648.89, shall be deemed in the DAS program for purposes of counting DAS, regardless of whether the vessel's owner or authorized representative provided adequate notification as required by paragraph (c) of this section.

* * * * *

(e) *Scallop vessels fishing under exemptions.* Vessels fishing under the exemptions provided by § 648.54 (a) and/or (b)(1) must notify the Regional Administrator by VTS notification or by call-in notification as follows:

* * * * *

(f) *Call-in for 20-day blocks.* With the exception of vessels issued a valid Small Vessel category permit, vessels subject to the spawning season restriction described in § 648.82 must notify the Regional Administrator of the commencement date of their 20-day period out of the multispecies fishery through either the VTS system or by call-in notification and provide the following information: Vessel name and permit number, owner and caller name and phone number, and the commencement date of the 20-day period.

9. In § 648.14, paragraphs (a)(19), (a)(37), (a)(40), (a)(43), (a)(48), (a)(50), (a)(57) introductory text, (a)(57)(i), (a)(86), (a)(96), (c)(6), (c)(7), (d)(3), (h)(1), (h)(9), (i)(1), and (x)(1)(iii) are revised, paragraphs (a)(100) and (d)(4) are added, paragraph (c)(10) is removed and paragraph (r) is removed and reserved as follows:

§ 648.14 Prohibitions.

(a) * * *

(19) Land or possess, after offloading, any cage holding surf clams or ocean quahogs without a cage tag or tags required by § 648.75, unless the person can demonstrate the inapplicability of the presumptions set forth in § 648.75(h).

* * * * *

(37) Fish with, use, or have available for immediate use within the area described in § 648.80(c)(1), nets of mesh size smaller that the minimum mesh size specified in § 648.80(c)(2), except as provided in § 648.80(c)(3), (d), (e), and (i), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

* * * * *

(40) Enter, or be in the area described in § 648.81(c)(1), on a fishing vessel, except as provided in § 648.81 (c)(2) and (d).

* * * * *

(43) Violate any of the provisions of § 648.80 (a)(3) Small Mesh Northern Shrimp Fishery Exemption Area, (a)(4) Cultivator Shoals Whiting Fishery Exemption Area; (a)(5) Stellwagen Bank/Jeffreys Ledge (SB/JL) juvenile protection area; (a)(8), Small Mesh Area 1/Small Mesh Area 2; or (a)(9) Nantucket Shoals Dogfish Fishery Exemption Area, (b)(3) Exemptions, or (b)(5) SNE Monkfish Fishery Exemption Area. A violation of any of these paragraphs is a separate violation.

* * * * *

(48) Violate any provision of the open access permit restrictions as provided in § 648.88.

* * * * *

(50) Violate any provision of the state waters winter flounder exemption program as provided in § 648.80(i).

* * * * *

(57) Fish for, possess or land per trip, scallops in excess of 400 lb (181.44 kg) or 50 bu (17.62 hl) of in-shell scallops, unless:

(i) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit, or

* * * * *

(86) Sell or transfer scup harvested in or from the EEZ north of 35°15.3′ N. lat. after January 1, 1997, unless the vessel has been issued a valid moratorium permit pursuant to § 648.4(a)(6).

* * * * *

(96) Enter or fish in the Gulf of Maine/Georges Bank and Southern New England Regulated Mesh Areas, except as provided in §§ 648.80 (a)(2)(iii) and (b)(2)(iii), and for purposes of transiting, provided that all gear (other than exempted gear) is stowed in accordance with § 648.23(b).

* * * * *

(100) Enter, fail to remove gear from, or be in the areas described in § 648.81(f)(1) through § 648.81(h)(1) during the time period specified, except as provided in § 648.81 (d), (f)(2), (g)(2), and (h)(2).

* * * * *

(c) * * *

(6) Fail to comply with any provision of the DAS notification program as specified in § 648.10.

(7) Possess or land per trip more than the possession limit specified under § 648.86(a) and § 648.82(b)(3), if the vessel has not been issued a limited access multispecies permit.

* * * * *

(d) * * *

(3) Possess or land NE multispecies during the time period specified in § 648.88(a)(2).

(4) Violate any provision of the open access handgear permit restrictions as provided in § 648.88(a).

* * * * *

(h) * * *

(1) Possess, or land per trip, more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops after using up the vessel's annual DAS allocation or when not participating under the DAS program pursuant to § 648.10, unless exempted from DAS allocations as provided in § 648.54.

* * * * *

(9) Possess more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 l) of in shell scallops or participate in the DAS allocation program, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 648.51(a)(2)(ii).

* * * * *

(i) * * *

(1) Possess, or land per trip, more than 400 lb (181.44 kg) of shucked or 50 bu (17.62 hl) of in-shell scallops.

* * * * *

(r) [Reserved]

* * * * *

(x) * * *

(1) * * *

(iii) Surf clams or ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and to be part of an individual's allocation, unless such individual demonstrates that he/she has surrendered his/her surf clam and ocean quahog vessel permit issued under § 648.4 and has conducted fishing operations exclusively within waters under the jurisdiction of any state. Surf clams and ocean quahogs in cages with a Federal tag or tags, issued and still valid pursuant to this section, affixed thereto are deemed to have been harvested by the individual allocation holder to whom the tags were issued or transferred under § 648.(70) or § 648.75(b).

* * * * *

10. In § 648.15, paragraph (c) is added to read as follows:

§ 648.15 Facilitation of enforcement.

* * * * *

(c) *Radio hails*. Permit holders, while underway, must be alert for communication conveying enforcement instructions and immediately answer via VHF–FM radio, channel 16, when hailed by an authorized officer. Vessels not required to have VHF–FM radios by the Coast Guard are exempt from this requirement.

* * * * *

11. In § 648.23, paragraphs (b)(3)(ii) and (b)(4) are revised to read as follows:

§ 648.23 Gear Restrictions.

* * * * *

(b) * * *

(3) * * *

(ii) The towing wires are detached from the net; and

* * * * *

(4) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register**.

* * * * *

12. In § 648.51, paragraph (e) introductory text is revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(e) *Small dredge program restrictions.* Any vessel owner whose vessel is assigned to either the part-time or occasional category may request, in the application for the vessel's annual permit, to be placed in one category higher. Vessel owners making such request will be placed in the appropriate category for the entire year, if they agree to comply with the following restrictions, in addition to and notwithstanding other restrictions of this part, when fishing under the DAS program described in § 648.53, or in possession of more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops:

* * * * *

13. In § 648.52, the heading and paragraph (a) is revised to read as follows:

§ 648.52 Possession limits.

(a) Owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 658.10, or have used up their DAS allocations, and vessels possessing a General scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possession or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, with not more than one scallop trip allowable in any calendar day.

* * * * *

14. In § 648.53, paragraphs (a) and (b) introductory text are revised to read as follows:

§ 648.53 DAS allocations.

(a) *Assignment to DAS categories.* For each fishing year, each vessel issued a limited access scallop permit shall be assigned to the DAS category (full-time, part-time, or occasional) it was assigned to in the proceeding year. Limited access scallop permits will indicate which category the vessel is assigned to. Vessels are prohibited from fishing for, landing per trip, or possessing more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops once their allocated number of DAS, as specified under paragraph (b) of this section, are used up.

(b) *DAS allocations.* Each vessel qualifying for one of the three categories specified in paragraph (a) of this section shall be allocated, annually, the maximum number of DAS it may

participate in the limited access scallop fishery, according to its category. A vessel whose owner/operator has declared it out of the scallop fishery, pursuant to the provisions of § 648.10, or has used up its allocated DAS may leave port without being assessed a DAS, as long as it does not possess or land more than 400 lb (181.44 kg) of shucked or 50 bu (17.62 hl) of in-shell scallops and complies with the other requirements of this part. The annual allocations of DAS for each category of vessel for the fishing years indicated are as follows:

* * * * *

15. In § 648.54, paragraphs (a), (b)(1), and (c) are revised to read as follows:

§ 648.54 State waters exemption.

(a) *DAS exemption.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements specified in § 648.53(b) while fishing exclusively landward of the outer boundary of a state's waters, provided the vessel complies with paragraphs (c) through (f) of this section.

(b) *Gear restriction exemption*—(1) *Limited access permits.* Any vessel issued a limited access scallop permit that is exempt from the DAS requirements of § 648.53(b) under paragraph (a) of this section is also exempt from the gear restrictions specified in § 648.51 (a), (b), (e)(1) and (e)(2) while fishing exclusively landward of the outer boundary of the waters of a state that has been deemed by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP, provided the vessel complies with paragraphs (c) through (f) of this section.

* * * * *

(c) *Notification requirements.* Vessels fishing under the exemptions provided by paragraph(s) (a) and/or (b)(1) of this section must notify the Regional Administrator in accordance with the provisions of § 648.10(e).

* * * * *

16. In § 648.73, paragraphs (a)(1) through (a)(3) are revised to read as follows:

§ 648.73 Closed Areas.

(a) * * *

(1) *Boston Foul Ground.* The waste disposal site known as the ''Boston Foul Ground'' and located at 42°2′36″ N. lat., 70°35′00″ W. long., with a radius of 1 nm in every direction from that point.

(2) *New York Bight.* The polluted area and waste disposal site known as the ''New York Bight Closure'' and located at 40°25′04″ N. lat., 73°42′38″ W. long., and with a radius of 6 nm in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°3′00″ N. lat., 73°43′38″ W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New York; and a line from the point on the arc at 40°19′48″ N. lat., 73°45′42″ W. long. to a point at the limit of the state territorial waters of New Jersey at 40°14′00″ N. lat., 73°55′42″ W. long.

(3) *106 Dumpsite.* The toxic industrial dump site known as the ''106 Dumpsite'' and located between 38°40′00″ N. lat. and 39°00′00″ N. lat., and 73°55′42″ W. long.

* * * * *

17. In § 648.80, the introductory paragraph, paragraphs (a)(2)(iii), (a)(3)(iii), (a)(5) introductory text, (a)(7)(iv) introductory text, (a)(7)(iv)(D), (b)(2)(iii), (b)(3)(i), (c)(1), and (c)(2)(i) are revised to read as follows.

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

All vessels must comply with the following minimum mesh size, gear and methods of fishing requirements, unless otherwise exempted or prohibited.

(a) * * *

(2) * * *

(iii) *Other restrictions and exemptions.* The minimum size for any trawl net, gillnet, Scottish seine, midwater trawl, or purse seine on a vessel or used by a vessel when fishing in the GOM/GB Regulated Mesh Area while not under the NE multispecies DAS program but when under one of the exceptions specified in paragraphs (a)(3), (a)(4), (a)(6), (a)(8), (a)(9), (d), (e), (h), and (i) of this section, is set forth in the respective paragraph specifying the exemption. Vessels that are not fishing under one of these exemptions, with exempted gear (as defined under this part), under the scallop state waters exemption specified in § 648.54, under a NE multispecies DAS, or under a NE multispecies open access Charter/Party or a Handgear permit, are prohibited from fishing in the GOM/GB Regulated Mesh Area.

* * * * *

(3) * * *

(iii) *Time restrictions.* A vessel may only fish under this exemption during the northern shrimp season, as established by the Commission and announced in the Commission's letter to participants.

* * * * *

(5) *Stellwagen Bank/Jeffreys Ledge (SB/JL) Juvenile Protection Area.* Except as provided in paragraphs (a)(3), (d), (e), and (h) of this section, the minimum mesh size for any trawl net, Scottish seine, purse seine, or midwater trawl in use, or available for immediate use as described in § 648.23(b), by a vessel fishing in the following area is 6-inch (15.24 cm) square mesh in the last 50 bars of the codend and extension piece for vessels 45 ft (13.7 m) in length and less and the last 100 bars of the codend and extension piece for vessels greater than 45 ft (13.7 m) in length.

* * * * *

(7) * * *

(iv) Bycatch in exempted fisheries authorized under this paragraph (a)(7) are subject, at minimum, to the following restrictions:

* * * * *

(D) A limit on the possession of skate or skate parts in the Southern New England regulated mesh area described in paragraph (b) of this section of 10 percent, by weight, of all other species on board.

* * * * *

(b) * * *

(2) * * *

(iii) *Other restrictions and exemptions.* The minimum mesh size for any trawl net, gillnet, Scottish seine, midwater trawl, or purse seine in use or available for immediate use, as described in § 648.23(b), by a vessel when not fishing under the NE multispecies DAS program and when fishing in the SNE Regulated Mesh Area is specified under the exemptions set forth in paragraphs (b)(3), (b)(5), (c), (e), (h), and (i) of this section. Vessels that are not fishing under one of these exemptions, with exempted gear (as defined under this part), or under the scallop state waters exemption specified in § 648.54, under a NE multispecies DAS, or under a NE Multispecies open access Charter/Party or Handgear permit, are prohibited from fishing in the SNE Regulated Mesh Area.

* * * * *

(3) *Exemptions*—(i) *Species exemptions.* Vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with the requirements specified in paragraph (b)(3)(ii) of this section.

* * * * *

(c) * * *

(1) *Mid-Atlantic regulated mesh area.* (1) *Area definition.* The Mid-Atlantic Regulated Mesh Area is that area bounded on the east by a line running from the Rhode Island shoreline at 41°18.2′ N. lat. and 71°51.5′ W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY, and from Race Point, Fishers Island, NY, southeasterly to the intersection of the 3-nautical mile line east of Montauk Point, southwesterly along the 3-nautical mile line to the intersection of 72°30′ W. long. and south along that line to the intersection of the outer boundary of the EEZ.

(2) *Gear restrictions*—(i) *Minimum mesh size.* Except as provided in paragraph (i) of this section, and unless otherwise restricted under paragraph (c)(2)(ii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine, or midwater trawl in use or available for immediate use, as described in § 648.23(b), by a vessel fishing under a DAS in the NE multispecies DAS program in the MA Regulated Mesh Area shall be that specified by § 648.104(a). This restriction does not apply to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

18. In § 648.82, paragraphs (b)(1)(ii), (b)(2)(ii), (b)(4)(i) introductory text, (b)(4)(ii), (b)(6)(i), (d)(2)(i) introductory text, and (g) are revised to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(1) * * *

(ii) *Initial assignment.* Any vessel issued a valid limited access multispecies Individual DAS permit as of July 1, 1996, except those that have been issued a gillnet permit, shall be initially assigned to the Individual DAS category.

(2) * * *

(ii) *Initial assignment.* Any vessel issued a valid Fleet DAS permit, Gillnet permit, limited access Hook-Gear permit, or a vessel issued a Less than or equal to 45 ft (13.7 m) permit that is larger than 20 ft (6.1 m) in length as determined by its most recent permit application, as of July 1, 1996, shall be initially assigned to the Fleet DAS category.

* * * * *

(4) *Hook-Gear category*—(i) *DAS allocation.* Any vessel issued a valid limited access multispecies Hook-Gear permit shall be allocated 116 DAS (139 DAS multiplied by the proration factor of 0.833) for the 1996 fishing year and 88 DAS for the 1997 fishing year and beyond. A vessel fishing under this category in the DAS program must meet or comply with the following while fishing for, in possession of, or landing regulated species:

* * * * *

(ii) *Initial assignment.* No vessel shall be initially assigned to the Hook-Gear category. Any vessel that meets the qualifications specified in § 648.4(a)(1)(i) may apply for and obtain a permit to fish under this category.

* * * * *

(6) *Large Mesh Individual DAS category*—(i) *DAS allocation.* A vessel fishing under the Large Mesh Individual DAS category shall be allocated a DAS increase of 12 percent in year 1 and 36 percent in year 2 and beyond over the DAS allocations specified in paragraph (b)(1)(i) of this section (this includes the proration factor for 1996). To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish with gillnet gear with a minimum size of 7-inch (17.78 cm) diamond mesh or with trawl gear with a minimum mesh size of 8-inch (20.32 cm) diamond mesh, for the entire year, as described under § 648.80(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

* * * * *

(d) * * *

(2) *Appeal of DAS allocation*—(i) Initial allocations of individual DAS to those vessels authorized to appeal under paragraph (c) of this section may be appealed to the Regional Administrator if a request to appeal is received by the Regional Administrator no later than August 31, 1996, or 30 days after the initial allocation is made, whichever is later. Any such appeal must be in writing and be based on one or more of the following grounds:

* * * * *

(g) *Spawning season restrictions.* A vessel issued a valid Small Vessel permit under paragraph (b)(3) of this section may not fish for, possess, or land regulated species from March 1 through March 20 of each year. Any other vessel issued a limited access multispecies permit must declare out and be out of the regulated NE multispecies fishery for a 20-day period between March 1 and May 31 of each calendar year using the notification requirements specified in § 648.10. If a vessel owner has not declared and been out for a 20-day period between March 1 and May 31 of each calendar year on or before May 12 of each year, the vessel is prohibited from fishing for, possessing or landing any regulated species during the period May 12 through May 31, inclusive. If a vessel has taken a spawning season 20-day block out of the NE multispecies fishery during May 1996, it shall not be required to take a 20-day block out of the multispecies fishery in 1997. Beginning January 1, 1998, any such vessel must comply with the spawning season restriction as specified in this part.

* * * * *

19. In § 648.86, paragraph (a)(2)(iii) is revised, paragraph (b) is removed, and paragraph (c) redesignated as paragraph (b) to read as follows.

§ 648.86 Possession restrictions.

(a) * * *

(2) * * *

(iii) From July 1 through December 31, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg) of haddock provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

20. In § 648.90, paragraph (a)(3) is revised to read as follows:

§ 648.90 Framework specifications.

(a) * * *

(3) The NEFMC shall review the recommended target TACs and all of the options developed by the MSMC and other relevant information, consider public comment, and develop a recommendation to meet the NE Multispecies FMP objective that is consistent with the other applicable law. If the NEFMC does not submit a recommendation that meets the NE Multispecies FMP objectives and is consistent with other applicable law, the Regional Administrator may adopt any option developed by the MSMC, unless rejected by the NEFMC, as specified in paragraph (a)(6) of this section, provided the option meets the NE Multispecies FMP objective and is consistent with other applicable law.

* * * * *

21. In § 648.100, paragraph (b)(8) is revised to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(b) * * *

(8) Adjustments to the exempted area boundary and season specified in

§ 648.104(b)(1) by 30-minute intervals of latitude and longitude and 2-week intervals, respectively, based on data specified in paragraph (a) of this section to prevent discarding of sublegal sized summer flounder in excess of 10 percent, by weight.

* * * * *

22. In § 648.106, the introductory text is revised to read as follows:

§ 648.106 Sea Turtle conservation.

This section will be suspended during the effectiveness of any temporary regulations issued to regulate incidental take of sea turtles in the summer flounder fishery under authority of the ESA under parts 217, 222, 227 of this title. Such suspensions and temporary regulations will be issued by publication in the **Federal Register** and will be effective for a specified period of time, not to exceed 1 year.

* * * * *

PART 648—[NOMENCLATURE CHANGE]

23. In part 648, all references to ''Regional Director'' are revised to read ''Regional Administrator.''

[FR Doc. 97–7714 Filed 3–24–97; 4:22 pm]

BILLING CODE 3510–22–P

50 CFR Part 622

[Docket No. 960807218–6244–02; I.D. 032097F]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the initial portion of the annual commercial quota for red snapper will be reached on March 25, 1997. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATE: Closure is effective 12:01 a.m., local time, March 26, 1997, through September 14, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (m lb) (2.11 million kg (m kg)) for the current fishing year, January 1 through December 31, 1997. The 1997 commercial quota is split between two seasons, the first beginning on February 1 with a quota of 3.06 m lb (1.39 m kg) and the second beginning on September 15 with a quota equal to the unharvested balance of the annual commercial quota.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing notification to that effect in the **Federal Register**. Based on current statistics, NMFS has projected that the available commercial quota of 3.06 m lb (1.39 m kg) for red snapper will be reached on March 25, 1997. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 a.m., local time, March 26, 1997, through September 14, 1997. The operator of a vessel with a valid reef fish permit having red snapper on board must land and sell such red snapper prior to 12:01 a.m., local time, March 26, 1997.

During the closure, the bag limit applies to all harvests of red snapper in or from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is five per person. From 12:01 a.m., local time, March 26, 1997, through September 14, 1997, the sale or purchase of red snapper taken from the EEZ is prohibited. This prohibition does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, March 26, 1997, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 1997.

Bruce Morehead,

Acting Director, Office of sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–7716 Filed 3–21–97; 4:50 pm]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 032097A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery category.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 22, 1997, through 1200 hrs, A.l.t., April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The first seasonal apportionment of the 1997 halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI, which is defined at § 679.21(e)(3)(iv)(B)(*1*), was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 210 mt.

In accordance with § 679.21(e)(7)(iv), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the 1997 halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI has been caught. Consequently, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–7715 Filed 3–21–97; 4:50 pm]

BILLING CODE 3510–22–F

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50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 032497A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1997 total allowable catch (TAC) of Pacific ocean perch in this area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 24, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The TAC of Pacific ocean perch for the Central Aleutian District was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 3,170 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the TAC of Pacific ocean perch specified for the Central Aleutian District will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,170 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 24, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–7821 Filed 3–24–97; 4:22 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 59
Thursday, March 27, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1651

Death Benefits

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing proposed regulations governing death benefit payments from the Thrift Savings Plan (TSP). These proposed regulations set forth the Board's policies and procedures for processing death benefit claims and death benefit payments under 5 U.S.C. 8433(e) and 8424(d).

DATES: Comments must be received on or before May 27, 1997.

ADDRESSES: Comments may be sent to John J. O'Meara, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara (202) 942–1660.

SUPPLEMENTARY INFORMATION: The Board administers the TSP which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514. The provisions governing the TSP are codified primarily in subchapters III and VII of Chapter 84 of Title 5, United States Code (1994). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a participant's TSP account are held in trust for that participant. 5 U.S.C. 8437(g).

The disbursement of death benefits from the TSP is governed by the provisions of 5 U.S.C. 8433(e) and 8424(d). Under section 8433(e), if a TSP participant dies before he or she has completed a withdrawal election, the account is to be disbursed in accordance with the order of precedence set forth at section 8424(d).

These proposed regulations set forth the Board's policies and procedures for processing death benefit claims and death benefit payments under 5 U.S.C. 8433(e) and 8424(d).

Section by Section Analysis

Section 1651.1 contains definitions of terms throughout these regulations. In particular, the Board invites comments concerning the Board's proposed definition for ''domicile.'' A participant's domicile is important for a determination of beneficiary under § 1651.5 and § 1651.9. Normally, the Board would look to the participant's address at the time of death to identify the participant's domicile; however, this practice presents problems in the case of participants who are living overseas. In order to permit the Board to look to the law of the United States in all cases, the Board proposes to use the state in which the participant is liable for state income taxes. This information should be generally available from the participant's agency.

Section 1651.2(a) sets forth the order of precedence as found in 5 U.S.C. 8424(d). Under the statutory order of precedence, payment is made first to the beneficiary or beneficiaries designated by the participant on a properly completed and filed designation of beneficiary form. Form TSP–3, Designation of Beneficiary, has been developed by the Board for that purpose. If the participant has elected to withdraw his or her account in the form of certain types of annuities (discussed below), the designation of beneficiary or beneficiaries made on Form TSP–11–B, Beneficiary Designation for a TSP Annuity, will supersede the statutory order of precedence. If the participant does not designate a beneficiary, payment will be made as provided by the remainder of 5 U.S.C. 8424(d). Each statutory category of potential beneficiaries is addressed in a separate section of these regulations.

Section 1651.2(b) addresses the payment of a death benefit after the participant has completed a withdrawal election. Different rules apply depending on the type of withdrawal election and, if applicable, the type of annuity chosen. Paragraph (b)(1) addresses the situation in which the participant dies after having completed an election to withdraw his or her account in the form of a single payment or monthly payments but before payment has been made. The account will be paid in accordance with the statutory order of precedence, because the election made by the participant provides no indication of his or her intended beneficiaries.

Paragraphs (b)(2) through (b)(6) address situations in which the participant dies after having completed an election to withdraw his or her account in the form of certain types of annuities but before the annuity has been purchased. Under paragraph (b)(2), if the participant dies after having completed an election to withdraw his or her account in the form of a joint life annuity but before the annuity has been purchased, the account will be paid as a single payment to the joint life annuitant. In this situation, the participant's election makes it clear that the joint annuitant should be the beneficiary upon the participant's death.

Under paragraph (b)(3), if both the participant and the joint annuitant die after the participant has completed an election to withdraw his or her account in the form of a joint life annuity but before the annuity has been purchased, and the annuity election included a cash refund, the account will be paid proportionally to the beneficiary or beneficiaries designated on Form TSP–11–B, Beneficiary Designation for a TSP Annuity. This result gives effect to the participant's wishes as reflected by his or her annuity election. If the annuity election did not include a cash refund, under paragraph (b)(4), the account will be paid in accordance with the statutory order of precedence.

Similarly, under paragraph (b)(5), if a participant dies after having completed an election to withdraw his or her account in the form of a single life annuity that includes either a cash refund or 10-year certain feature, but before the annuity has been purchased, the account will be paid proportionally to the beneficiary or beneficiaries designated on Form TSP–11–B. If the annuity does not include either a cash refund or 10-year certain feature, under paragraph (b)(6), the account will be paid in accordance with the statutory order of precedence.

Paragraph (b)(7) addresses the situation in which the participant dies after the annuity has been purchased. In that situation, the account will be paid

in accordance with the annuity method selected. Once the Board purchases the annuity elected by the participant, responsibility for payment of the benefits shifts to the annuity provider.

Section 1651.3 sets forth the requirements for a valid designation of beneficiary on a Form TSP–3. In order to designate a beneficiary of a TSP account, a participant must complete and send to the TSP recordkeeper a Form TSP–3, Designation of Beneficiary, or Form TSP–11–B, Beneficiary Designation for a TSP Annuity. Form TSP–11–B must be used to designate a beneficiary when a participant elects to withdraw his or her account in the form of a joint annuity with a cash refund feature or a single life annuity with a cash refund feature or a 10-year certain feature.

A will may not be used to designate a beneficiary of a TSP account. The Board will also not honor a designation of beneficiary that is set forth in a court decree of divorce, annulment, or legal separation or in any court order or court-approved property settlement agreement incident to such a decree that is issued under section 8435(c)(2) of title 5 of the United States Code. Such designation is considered to be an award of a future interest and, to the extent that a court order awards an amount to be paid upon the occurrence of a future specified event, the order is not a qualifying retirement benefits court order pursuant to 5 CFR 1653.2(c).

In order to be a valid designation of beneficiary, all Forms TSP–3 signed on or after January 1, 1995, must be re ceived by the TSP recordkeeper on or before the participant's date of death. This is a change in the procedures for processing Forms TSP–3. Before January 1, 1995, active employees were required to submit Forms TSP–3 to their employing agency, which, in turn, forwarded the forms to the TSP recordkeeper when a participant died in service or separated from service. Because of the change in the processing of Forms TSP–3, the Board has instructed all agencies to send to the TSP recordkeeper all Forms TSP–3 that are in employees' personnel files. Any forms signed before January 1, 1995, which were received by the agencies before the participant's death will be evaluated by the recordkeeper to determine whether they are valid, despite the fact that they were received by the agencies. Forms that the recordkeeper finds invalid will be returned to the participant. A valid Form TSP–3 will remain in effect until it is canceled or changed as described in § 1651.4.

In addition to being properly filed, a Form TSP–3 must be properly completed in order to be valid. This means that the form must be signed by the participant and two witnesses. The individuals signing as witnesses must actually observe the participant signing the form, or they must observe the participant acknowledge his or her signature on the Form TSP–3. Witnesses should not be named as beneficiaries. A form that contains a signature for a witness who is also a named beneficiary is valid; however, the witness beneficiary will not be entitled to receive his or her designated share of the account.

Section 1651.4 sets forth the requirements for changing or canceling a designation of beneficiary. In order to change a designation, the participant must complete and file another Form TSP–3. The Form TSP–3 containing the changes must be valid and must be received by the TSP recordkeeper on or before the date of death of the participant. In order to cancel a prior designation, the participant may complete and send another Form TSP–3 with a notation that all prior designations are canceled. Alternatively, the participant may send a letter, signed and dated by the participant and witnessed in the same manner as a Form TSP–3, stating that prior designations are canceled. A letter canceling a prior designation must also be received by the TSP recordkeeper on or before the participant's date of death.

A participant may make, change, or cancel a designation of beneficiary at any time and without the knowledge or consent of the participant's spouse or any current or prior designated beneficiaries. An intervening legal separation, divorce, or annulment of the marriage of the participant does not automatically cancel a Form TSP–3 naming the spouse or former spouse or anyone else as a beneficiary.

Sections 1651.5 through 1651.9 further describe the potential beneficiaries under the statutory order of precedence. Section 1651.5 sets forth the rules for payment to the participant's spouse. It explains that the widow or widower of the participant is the person to whom the participant is married on the date of death. Whether the participant was married will be determined in accordance with applicable state laws, based upon the participant's domicile at the time of death. A person is considered to be married even if the parties are separated. The Board will make a payment to an individual who claims to be the common law spouse of a participant only if the requirements for a common law marriage under the applicable state law have been met.

Section 1651.6 sets forth the rules for the death benefit payment of a participant's TSP account to the participant's children or the descendants of deceased children. A child includes a natural or adopted child. Whether a child is the natural child of the participant will be determined in accordance with applicable state law. State law will not apply, however, in cases involving a natural child of a TSP participant who was adopted by someone other than the spouse of the participant during the lifetime of the participant. In those cases, these regulations establish the general rule that the child will not be treated as a child of the participant under this section.

Section 1651.7 sets forth the rules for the death benefit payment of a participant's TSP account to the participant's parents. A step-parent is not considered a parent unless the step-parent adopted the participant.

Payment to the duly appointed executor or administrator of the participant's estate is addressed in § 1651.8. A duly appointed executor or administrator of a participant's estate includes any person appointed by a court to act in that capacity. Some states have established statutory procedures for transferring the assets of estates below a specified value. The Board will accept a person authorized under those procedures to handle the affairs of the deceased participant's estate as the ''duly appointed executor or administrator'' of the participant's estate. This policy recognizes that many states do not require, and may not even permit, estates below a certain value to be probated formally through the state court system. However, documentation establishing that the applicant is qualified under the relevant state's small estate procedures must be submitted to the TSP recordkeeper.

If the participant is not survived by a spouse, child, or parent, and an executor or administrator is not appointed under state court or statutory procedures, § 1651.9 provides that payment will be made to the participant's next of kin as determined under the state law of the participant's domicile at the time of death.

Under 5 U.S.C. 8424(d), benefits will be paid to the individual or individuals ''surviving the employee or Member and alive at the date title to the payment arises.'' The Board interprets this phrase to mean that the entitlement to a death benefit payment arises at the time of the participant's death and, therefore, a beneficiary must be alive at the time of

the participant's death in order to receive a death benefit. Accordingly, under § 1651.10(a), if a beneficiary designated on a Form TSP–3 or Form TSP–11–B dies before the participant, the beneficiary's share will be paid to the other living designated beneficiary(ies), if any, proportionally. For example, if the deceased beneficiary was designated to receive 50% of the account and the first living beneficiary was to receive 20% of the account and the second remaining beneficiary was to receive 30% of the account, the first living beneficiary would receive 40% of the deceased beneficiary's share of the account (20% + (20/50 × 50%)) and the second remaining beneficiary would receive 60% of the deceased beneficiary's share of the account (30% + (30/50 × 50%)). If there are no living designated beneficiaries, the account will be paid to the person(s) determined to be the beneficiary(ies) under the statutory order of precedence.

Under § 1651.10(b), if a trust or other entity that has been designated as the beneficiary of the participant's account does not exist on the date of death of the participant or if it is not created by will or other document to take effect upon the participant's death, the account will be paid under the statutory order of precedence.

Under § 1651.10(c), if a beneficiary by virtue of the order of precedence dies before the participant, the beneficiary's share will be paid equally to other living beneficiary(ies) bearing the same relationship to the participant as the deceased beneficiary, unless the deceased beneficiary is a child of the beneficiary. In that case, the descendants of the deceased child would receive the deceased child's share of the account. If there are no other beneficiaries bearing the same relationship or there are no descendants of a deceased child, the deceased beneficiary's share will be paid to the person(s) next in line, according to the order of precedence.

Because a beneficiary's interest in the death benefit is created upon the death of the participant, § 1651.10(d) provides that if the beneficiary dies after the participant but before payment is made, the beneficiary's share will be paid to the beneficiary's estate.

Consistent with the requirement that the beneficiary survive the participant, § 1651.11 provides that if the participant and the beneficiary die simultaneously, the Board considers the beneficiary to have predeceased the participant and the account will be paid in the manner set forth in § 1651.10. Death is considered to be simultaneous if the death certificate lists the same hour and minute for the time of death. In common disaster situations, such as an automobile or airplane crash, where a precise time of death cannot be established, it will be presumed that the beneficiary(ies) and the participant died simultaneously, unless the death certificate otherwise indicates.

Section 1651.12 reflects the Board's policy of not paying the beneficiary of a TSP participant if the beneficiary is convicted of a crime in connection with the participant's death which would preclude the beneficiary from inheriting under state law. In this regard, the Board follows strong public policy which prohibits a person from profiting from his or her wrongdoing. The Board will follow the law of the state in which the participant was domiciled at the time of death as that law is set forth in a civil court judgment or, in the absence of such a judgment, will apply state law to the facts of the case after all criminal appeals have been exhausted. The civil court judgment must be one that, under the law of the state, would protect the Board from double liability or payment. The Board will treat that beneficiary as if he or she had predeceased the TSP participant and will determine the beneficiary(ies) of the account according to the procedures described in § 1651.10. A plea of guilty to such a crime constitutes a conviction for purposes of these regulations.

Section 1651.13 sets forth the procedure for applying for a death benefit payment. In order for a death benefit payment to be processed, the TSP recordkeeper must receive Form TSP–17, Application for Account Balance of Deceased Participant, with a certified copy of the participant's death certificate. A copy of a certified death certificate contains a copy of the stamp or seal of the state agency that is responsible for issuing death certificates. Form TSP–17 may be submitted by any potential beneficiary or any interested party; however, submission of an application does not entitle the applicant to benefits.

Section 1651.14 explains how death benefit payments are made. Before a payment can be made, each beneficiary will be sent a notice of pending payment. That notice will contain information regarding the portion of the account that will be paid to the beneficiary and will provide information regarding the Federal tax consequences of the payment. Payment is made by separate check to each beneficiary. If payment is to the widow or widower of the participant, she or he may transfer all or a portion of the payment to an Individual Retirement Arrangement (IRA). The TSP recordkeeper will provide the widow or widower with a Form TSP–13–S, Spouse Election to Transfer to IRA or Other Eligible Retirement Plan, to request such a transfer. For purposes of transferring the account, the TSP recordkeeper will not accept forms from other institutions. If payment is to a minor child, the check will be made payable directly to the child. If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant. A taxpayer identification number (TIN) must be provided for any estate, regardless of whether the estate is required to pay taxes. This is necessary to allow the Board to fulfill its statutory reporting obligation to the Internal Revenue Service. If payment is to a trust, the check will be made payable to the trustee. A taxpayer identification number (TIN) must be provided for the trust.

Certain types of issues relating to the processing of death cases will be decided by the Board as set forth in § 1651.15. Those cases may involve conflicting claims to a participant's account, such as when one applicant claims that the participant was married at the time of death and another applicant claims that the participant was not married at the time of death. Other cases may involve the accuracy of the Form TSP–17 or the validity of Forms TSP–3, TSP–17, TSP–11–B, or a letter canceling a designation. The Board will also review challenges made to the legal status of a purported beneficiary. The Board may require that issues regarding paternity, the validity of a participant's marriage on the date of death, or other matters that traditionally fall under state law, be resolved by a state court before the Board issues payment.

In some cases, the beneficiary of the account cannot be readily located, such as when the Board does not have a correct address for an estranged spouse or parent. These cases include both situations in which the name of the beneficiary is known, but his or her whereabouts are not, and situations in which the name of the beneficiary is not known. Section 1651.16 sets forth the process that will be followed when it appears that a beneficiary is missing.

The TSP recordkeeper will make reasonable efforts to locate the missing beneficiary or to learn the name and location of a missing beneficiary. If the beneficiary has not been located and at least one year has passed since the date of death of the participant, that beneficiary will be treated as having predeceased the participant. However, if a potential beneficiary does not

cooperate in the TSP recordkeeper's efforts to locate a missing beneficiary(ies), the missing beneficiary's share of the account will be treated as having been abandoned and it will revert to the TSP. In such circumstances, the missing beneficiary(ies) may reclaim the abandoned share of the account at a later date by submitting a Form TSP–17 and providing sufficient proof to establish his or her relationship to the participant. However, earnings will not be credited to any funds that have been abandoned.

If the total number of beneficiaries and their identities are known and one or more, but not all, appear to be missing, payment of part of the participant's account may be made to the beneficiary(ies) whose location is known. If the Board is unable to locate any beneficiaries of the account, the account will be abandoned and the funds will be forfeited to the TSP. If a beneficiary is located at any time after the funds are forfeited to the TSP, the beneficiary may claim the entire account by submitting a Form TSP–17 and providing sufficient proof to establish his or her identity and relationship to the participant. However, earnings will not be credited to any funds that have been abandoned.

The beneficiary of a TSP account may disclaim his or her right to receive the benefit in accordance with § 1651.17. A disclaimer is irrevocable. The disclaimant cannot direct to whom the disclaimant's portion of the participant's account should be paid. The disclaimant must disclaim the entire benefit, not a portion. The disclaimant will be treated as having predeceased the participant for purposes of determining to whom the disclaimant's portion of the account is to be paid.

Section 1651.18 provides that payment to a beneficiary made in accordance with these regulations bars any claim by another person.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administration Procedure Act (APA), as amended by the Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, tit. II, 110 Stat. 847, 857–875 (5 U.S.C. 801(a)(1)(A)), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined in section 804(2) of the APA as amended (5 U.S.C. 804(2)).

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1651

Employee benefit plans, Government employees, Pensions, Retirement.

Dated: March 18, 1997.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, the Federal Retirement Thrift Investment Board proposes to amend Chapter VI of title 5 of the Code of Federal Regulations by adding a new Part 1651 to read as follows:

PART 1651—DEATH BENEFITS

Sec.

1651.1 Definitions.
1651.2 Entitlement to benefits.
1651.3 Designation of beneficiary.
1651.4 Change or cancellation of a designation of beneficiary.
1651.5 Widow or widower.
1651.6 Child or children.
1651.7 Parent or parents.
1651.8 Participant's estate.
1651.9 Participant's next of kin.
1651.10 Deceased and non-existent beneficiaries.
1651.11 Simultaneous death.
1651.12 Homicide.
1651.13 How to apply for a death benefit.
1651.14 How payment is made.
1651.15 Claims referred to the Board.
1651.16 Missing and unknown beneficiaries.
1651.17 Disclaimer of benefits.
1651.18 Payment to one bars payment to another.

Authority: 5 U.S.C. 8424(d), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

§ 1651.1 Definitions.

Terms used in this part shall have the following meanings:

Beneficiary means the person or legal entity who is entitled to receive a death benefit from a deceased participant's TSP account;

Board means the Federal Retirement Thrift Investment Board;

Death benefit means all or a share of the deceased participant's TSP account at the time of payment;

Domicile means the participant's place of residence for purposes of state income tax liability;

Order of precedence means the order in which a death benefit will be paid, as specified in 5 U.S.C. 8424(d);

Participant means any person with an account in the Thrift Savings Fund;

Thrift Savings Fund means the Fund described in 5 U.S.C. 8437;

Thrift Savings Plan or *TSP* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986, codified in pertinent part at 5 U.S.C. 8431 et seq.;

TSP recordkeeper means the entity that is engaged by the Board to perform recordkeeping services for the Thrift Savings Plan. As of [effective date of final rule], the TSP recordkeeper is the National Finance Center, United States Department of Agriculture, whose mailing address is National Finance Center, TSP Service Office, P.O. Box 61135, New Orleans, Louisiana 70161–1135;

Withdrawal election means a request for the payment of a participant's vested account balance filed under 5 CFR 1650, subpart B.

§ 1651.2 Entitlement to benefits.

(a) *Death benefit payments made before the participant has completed a withdrawal election.* If a participant dies before completing a withdrawal election, the account will be paid to the individual or individuals surviving the participant in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant on a properly completed and filed Form TSP–3, Designation of Beneficiary, in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the widow or widower of the participant in accordance with § 1651.5;

(3) If none of the above in paragraphs (a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If none of the above in paragraphs (a)(1) through (a)(3) of this section, to

the parents of the participant or the surviving one of them in accordance with § 1651.7;

(5) If none of the above in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or administrator of the estate of the participant in accordance with § 1651.8;

(6) If none of the above in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who are entitled under the laws of the state of the participant's domicile at the date of the participant's death in accordance with § 1651.9.

(b) *Death benefit payments made after the participant has completed a withdrawal election.* (1) The death benefit will be paid in accordance with the order of precedence as set forth in paragraph (a) of this section if the Board learns that the participant has died after having completed an election to withdraw his or her TSP account balance in the form of a single payment or monthly payments (whether or not the participant has requested that all or part of such payments be transferred to an eligible retirement plan), but the account balance has not yet been paid out in accordance with such election.

(2) The death benefit will be paid as a single payment to the joint life annuitant if the Board learns that the participant has died after having completed an election to withdraw his or her TSP account balance in the form of a joint life annuity, but the annuity has not yet been purchased.

(3) The death benefit will be paid *pro rata* as a single payment to the beneficiary(ies) designated on Form TSP–11–B, Beneficiary Designation for a TSP Annuity, if both the participant and the joint annuitant die after the participant has completed an election to withdraw his or her TSP account balance in the form of a joint life annuity that includes a cash refund, but before the annuity has been purchased.

(4) The death benefit will be paid in accordance with the order of precedence as set forth in paragraph (a) of this section, if the Board learns that—

(i) both the participant and the joint annuitant have died after the participant has completed an election to withdraw his or her TSP account balance in the form of a joint life annuity that does not include a cash refund, but the annuity has not yet been purchased; or

(ii) both the beneficiary(ies) named under a cash refund election and the joint annuitant have died after the participant has completed an election to withdraw, but the annuity has not yet been purchased.

(5) The death benefit will be paid *pro rata* to the beneficiary(ies) designated on the Form TSP–11–B if the Board learns that the participant has died after having completed an election to withdraw his or her TSP account balance in the form of a single life annuity that includes either a cash refund or 10-year certain feature, but the annuity has not yet been purchased.

(6) The death benefit will be paid in accordance with the order of precedence set forth in paragraph (a) of this section if the Board learns that the participant and all beneficiaries designated on a Form TSP–11–B have died after the participant has completed an election to withdraw his or her TSP account balance in the form of a single life annuity that includes either a cash refund or a 10-year certain feature, but the annuity has not yet been purchased.

(7) The death benefit will be paid in accordance with the order of precedence as set forth in paragraph (a) of this section if a participant dies after having completed an election to withdraw his or her TSP account balance in the form of a single life annuity that does not include either a cash refund or 10-year certain feature, but before the annuity has been purchased.

(8) If a participant dies after the annuity purchase has been completed, benefit payments will be provided in accordance with the annuity method selected.

§ 1651.3 Designation of beneficiary.

(a) *Filing requirements.* In order to designate a beneficiary of a TSP account, the participant must complete and file Form TSP–3, Designation of Beneficiary, unless Form TSP–11–B is used for this purpose. All Forms TSP–3 and TSP–11–B signed on or after January 1, 1995, must be received by the TSP recordkeeper (or the Board) on or before the participant's date of death. A Form TSP–3 submitted to the participant's employing agency after December 31, 1994, will not be considered valid unless it is also received by the TSP recordkeeper (or the Board) on or before the participant's date of death. If the Form TSP–3 was received and accepted by the participant's employing agency before January 1, 1995, the TSP recordkeeper will process it and determine its validity when it is received from the employing agency. A valid Form TSP–3 remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of the beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* In order to be valid, a Form TSP–3 must be signed by the participant in the presence of two witnesses, or the participant must acknowledge his or her signature on the Form TSP–3 in the presence of two witnesses. A witness must be age 21 or older, and a witness designated as a beneficiary on the Form TSP–3 will not be entitled to receive a death benefit payment. If a witness is the only named beneficiary, the Form TSP–3 is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries *pro rata.*

(d) *Will.* A will, or any document other than Form TSP–3 or Form TSP–11–B, may not be used to designate a beneficiary(ies) of a TSP account.

§ 1651.4 Change or cancellation of a designation of beneficiary.

(a) *Change.* In order to change a designation of beneficiary, the participant must properly complete a new Form TSP–3, which must be received by the TSP recordkeeper on or before the date of death of the participant under the same rules as set forth in § 1651.3(a). The TSP record keeper will honor the Form TSP–3 with the latest date signed by the participant which is otherwise valid under the rules set forth in § 1651.3. A change of beneficiary may be made at any time and without the knowledge or consent of the participant's spouse or any current or prior designated beneficiaries.

(b) *Cancellation.* A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid Form TSP–3 or a letter, signed and dated by the participant and witnessed in the same manner as a Form TSP–3, stating that all prior designations are canceled. In order to be effective, either of these documents must be received by the TSP recordkeeper on or before the date of death of the participant in accordance with the rules set forth in § 1651.3(a). The filing of either of these documents will cancel all earlier designations.

(c) *Will.* A will, or any document other than Form TSP–3 or Form TSP–11–B, may not be used to change or cancel a beneficiary(ies) of a TSP account.

§ 1651.5 Widow or widower.

For purposes of payment under § 1651.2(a)(2), the widow or widower of the participant is the person to whom the participant is married on the date of

death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. State law of the participant's domicile will be used to determine whether the participant was married at the time of death.

§ 1651.6 Child or children.

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in § 1651.2(a)(3), the following rules apply:

(a) *Child.* A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children.* ''By representation'' means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another.* A natural child of a TSP participant who has been adopted by someone other than the participant during the participant's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

§ 1651.7 Parent or parents.

If the account is to be paid to the participant's parent or parents under § 1651.2(a)(4), the following rules apply:

(a) *Amount.* If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.

(b) *Step-parent.* A step-parent is not considered a parent unless the step-parent adopted the participant.

§ 1651.8 Participant's estate.

If the account is to be paid to the duly appointed executor or administrator of the participant's estate under § 1651.2(a)(5), the following rules apply:

(a) *Appointment by court.* The executor or administrator must provide documentation of court appointment.

(b) *Appointment by operation of law.* If state law provides procedures for handling small estates, the Board will accept the person authorized to dispose of the assets of the deceased participant under those procedures as a duly appointed executor or administrator. Documentation which demonstrates that the person is properly authorized under state law must be submitted to the TSP recordkeeper.

§ 1651.9 Participant's next of kin.

If the account is to be paid to the participant's next of kin under § 1651.2(a)(6), the next of kin of the participant will be determined in accordance with the state law of the participant's domicile at the time of death.

§ 1651.10 Deceased and non-existent beneficiaries.

(a) *Designated beneficiary dies before participant.* The share of any beneficiary designated on a Form TSP–3 or Form TSP–11–B who predeceases the participant will be paid *pro rata* to other designated beneficiary(ies). If there are no designated beneficiaries who survive the participant, the account will be paid to the person(s) determined to be the beneficiary(ies) under the order of precedence set forth in § 1651.2(a).

(b) *Trust designated as beneficiary but not in existence.* If a trust or other entity that has been designated as a beneficiary does not exist on the date of death of the participant, or if it is not created by will or other document that is effective upon the participant's death, the amount will be paid in accordance with the rules of paragraph (a) of this section, as if the trust were a beneficiary that predeceased the participant.

(c) *Non-designated beneficiary dies before participant.* If a beneficiary other than a beneficiary designated on a Form TSP–3 or a Form TSP–11–B (*i.e.*, a beneficiary by virtue of the order of precedence) dies before the participant, the beneficiary's share will be paid equally to other living beneficiary(ies) bearing the same relationship to the participant as the deceased beneficiary. However, if the deceased beneficiary is a child of the participant, payment will be made to the deceased child's descendants, if any. If there are no other beneficiaries bearing the same relationship or, in the case of children, there are no descendants of deceased children, the deceased beneficiary's share will be paid to the person(s) next in line according to the order of precedence.

(d) *Beneficiary dies after participant but before payment.* If a beneficiary dies after the participant, the beneficiary's share will be paid to the beneficiary's estate.

(e) *Death certificate.* A copy of a beneficiary's certified death certificate is required in order to establish that the beneficiary has died.

§ 1651.11 Simultaneous death.

If a beneficiary dies at the same time as the participant, the beneficiary will be treated as if he or she pre-deceased the participant and the account will be paid in accordance with § 1651.10. The same time is considered to be the same hour and minute as indicated on a death certificate. If the participant and beneficiary are killed in the same event, death is presumed to be simultaneous, unless evidence is presented to the contrary.

§ 1651.12 Homicide.

If the participant's death is the result of a homicide, a beneficiary will not be paid as long as the beneficiary is under investigation by local, state or Federal law enforcement authorities as a suspect. If the beneficiary is convicted of, or pleads guilty to, a crime in connection with the participant's death which would preclude the beneficiary from inheriting under state law, the beneficiary will not be entitled to receive any portion of the participant's account. The Board will follow the state law of the participant's domicile as that law is set forth in a civil court judgment (that, under the law of the state, would protect the Board from double liability or payment) or, in the absence of such a judgment, will apply state law to the facts after all criminal appeals are exhausted. The Board will treat the beneficiary as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10.

§ 1651.13 How to apply for a death benefit.

In order for a deceased participant's account to be disbursed, the TSP recordkeeper must receive Form TSP–17, Application for Account Balance of Deceased Participant. Any potential beneficiary or other individual can file Form TSP–17 with the TSP recordkeeper. The individual submitting Form TSP–17 must attach a copy of a certified death certificate of the participant to the application. The acceptance of an application by the TSP recordkeeper does not entitle the applicant to benefits.

§ 1651.14 How payment is made.

(a) *Notice.* The TSP recordkeeper will send notice of pending payment to each beneficiary.

(b) *Payment.* Payment is made separately to each entitled beneficiary. It will be sent to the address that is provided on Form TSP–3, unless a more recent address is provided on Form TSP–17, or is otherwise provided to the TSP recordkeeper in writing by the beneficiary. All beneficiaries must provide the TSP recordkeeper with a taxpayer identification number (TIN) except for nonresident alien beneficiaries.

(c) *Payment to widow or widower.* The widow or widower of the participant

may request that the TSP transfer all or a portion of the payment to an Individual Retirement Arrangement (IRA). In order to request such a transfer, a spouse must file with the TSP recordkeeper Form TSP–13–S, Spouse Election to Transfer to IRA and Other Eligible Retirement Plan.

(d) *Payment to minor child or incompetent beneficiary.* Payment will be made in the name of a minor child or incompetent beneficiary. A parent or other guardian may direct where the payment should be sent and may make any permitted tax withholding election. A guardian of a minor child or incompetent beneficiary must submit court documentation showing his or her appointment as guardian.

(e) *Payment to executor or administrator.* If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant, not to the executor or administrator. A TIN must be provided for all estates.

(f) *Payment to trust.* If payment is to a trust, the check will be made payable to the trustee. A TIN must be provided for the trust.

§ 1651.15 Claims referred to the Board.

(a) *Contested claims.* Any challenge to a proposed death benefit payment must be filed in writing with the TSP recordkeeper before payment. All contested claims will be referred to the Board. The Board may also consider issues on its own.

(b) *Payment deferred.* No payment will be made until the Board has resolved the claim.

§ 1651.16 Missing and unknown beneficiaries.

(a) *Locate and identify beneficiaries.* (1) The TSP recordkeeper will attempt to identify and locate all potential beneficiaries.

(2) If a beneficiary is not identified and located, and at least one year has passed since the date of the participant's death, the beneficiary will be treated as having predeceased the participant and the beneficiary's share will be paid in accordance with § 1651.10

(b) *Payment to known beneficiaries.* If all potential beneficiaries are known but one or more beneficiaries (and not all) appear to be missing, payment of part of the participant's account may be made to the known beneficiaries. The lost or unidentified beneficiary's share may be paid in accordance with paragraph (a) of this section at a later date.

(c) *Abandoned account.* If no beneficiaries of the account are located, the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the Board's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date. However, earnings will not be credited from the date the fund is abandoned. The beneficiary will be required to submit Form TSP–17 and may be required to submit proof of his or her identity and relationship to the participant.

§ 1651.17 Disclaimer of benefits.

(a) *Disclaimer criteria.* The beneficiary of a TSP account may disclaim his or her right to receive the account. In order to be effective, the following criteria must be met:

(1) The disclaimer must be in writing. The writing must state specifically that the beneficiary is disclaiming his or her right to receive a death benefit payment from the TSP account of the participant.

(2) The disclaimer must be irrevocable.

(3) The disclaimer must be received by the TSP recordkeeper before payment is made.

(4) The disclaimant cannot direct to whom the disclaimant's portion of the participant's account should be paid.

(5) The disclaimant must disclaim the entire benefit, not a portion.

(b) *Treatment of disclaimed share.* The disclaimant will be treated as having predeceased the participant and his or her share will be paid in accordance with § 1651.10.

§ 1651.18 Payment to one bars payment to another.

Payment made to a beneficiary(ies) in accordance with this part, based upon information received before payment, bars any claim by any other person.

[FR Doc. 97–7661 Filed 3–26–97; 8:45 am]
BILLING CODE 6760–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184–0031b; FRL–5709–4]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definition of volatile organic compounds (VOC) and updates the Exempt Compound list in rules from the San Diego County Air Pollution Control District (SDCAPCD).

The intended effect of proposing approval of this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SDCAPCD rules to be consistent with the revised federal and state VOC definitions. EPA is proposing approval of these revisions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revisions as a direct final rule without prior proposal because the Agency views these administrative changes as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 28, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office [Air–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, CA 92123.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office [Air-4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone (415) 744–1197.

SUPPLEMENTARY INFORMATION: This document concerns SDCAPCD Rule 2, Definitions; Rule 67.0, Architectural Coatings; Rule 67.1, Alternative Emission Control Plans; Rule 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvents; Rule 67.3, Metal Parts and Products Coating Operations; Rule 67.5, Paper, Film, and Fabric Coating Operations; Rule 67.7, Cutback and Emulsified Asphalts; Rule 67.12, Polyester Resin Operations; Rule 67.15, Pharmaceutical and Cosmetic Manufacturing Operations; 67.16, Graphic Arts Operations; Rule 67.17, Storage of Materials Containing Volatile Organic Compounds; Rule 67.18, Marine Coating Operations; and Rule 67.24, Bakery Ovens. These rules were submitted to EPA on October 18, 1996 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Date Signed: February 26, 1997.

John Wise,

Acting Regional Administrator.

[FR Doc. 97–7693 Filed 3–26–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[ME048–1–6997b; FRL–5802–4]

Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; States of Maine and New Hampshire

AGENCY: United States Environmental Protection Agency (USEPA or Agency)

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to correct the ozone designations for the Sullivan and Belknap Counties, New Hampshire nonattainment areas and the portions of Oxford, Franklin and Somerset Counties in Maine designated nonattainment. The USEPA is proposing to correct their designations from nonattainment nonclassified/incomplete data to attainment/unclassified for ozone pursuant to section 110(k)(6) of the Clean Air Act (the Act), which allows the USEPA to correct its actions.

In the Final Rules Section of this **Federal Register**, the USEPA is correcting the designations in a direct final rule without prior proposal because the Agency views this correction as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the correction is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. Please be aware that the USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to the direct final rule. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received in writing by April 28, 1997.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., (CAQ), Boston, MA 02203. Copies of EPA's technical support document are available for public inspection during normal business hours, by appointment at: Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333; and the New Hampshire Department of Environmental Services, 64 N. Main St., Concord, NH 03302.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., (CAQ), Boston, MA 02203. Phone: 617–565–3578.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 19, 1997.

Carol M. Browner,

Administrator.

[FR Doc. 97–7627 Filed 3–26–97; 8:45 am]

BILLING CODE 6560–50–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51–3, 51–4, and 51–6

Miscellaneous Amendments to Committee Regulations

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed rule.

SUMMARY: The Committee is proposing to make changes to four sections of its regulations to clarify them and improve the efficiency of operation of the Committee's Javits-Wagner-O'Day (JWOD) Program. The changes are necessary to assure consistency with an earlier regulation change, eliminate an unnecessary rule, encourage more efficient contracting, and inform the public of a change in Committee policy on military resale items.

DATES: Submit comments on or before May 27, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603–7740. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: Since the Committee's regulations were last amended on October 20, 1995 (60 FR 54199), the Committee has noticed several instances where minor changes or clarifications are needed. The Committee has decided to make these changes in one rulemaking rather than individually.

In a 1994 revision (59 FR 59342), 41 CFR 51–3.2(d), concerning the requirement for central nonprofit agencies to recommend to the Committee commodities and services for addition to the Procurement List, with initial fair market prices, was split into two paragraphs (41 CFR 51–3.2(d) and (e)) to make it consistent with the Committee's statute, which treats addition of commodities or services to the Procurement List and determination of fair market prices as two distinct Committee functions. However, the related provision at 41 CFR 51–3.2(c) requiring central nonprofit agencies to obtain from Federal contracting activities the information needed for the Committee to perform these functions was not similarly divided. The proposed change to 41 CFR 51–3.2(c) makes this division.

The Committee's requirements for a nonprofit agency to maintain its qualification to participate in the JWOD Program (41 CFR 51–4.3) include compliance with applicable Department of Labor (DOL) compensation, employment, and occupational health and safety standards (paragraph (b)(2)), and establishment of written procedures to encourage filling of vacancies within the nonprofit agency by promotion of qualified employees who are blind or have other severe disabilities (paragraph (b)(9)). Because of the dollar value of their Federal contracts under the JWOD Program, most JWOD nonprofit agencies are required by DOL employment standards promulgated under authority of section 503 of the Rehabilitation Act to have procedures like those required by paragraph (b)(9). The Committee strongly endorses the policies underlying these DOL employment standards. Accordingly, the Committee proposes to remove paragraph (b)(9) and revise paragraph (b)(2) to make clear to the public that the DOL standards it mentions include the procedures formerly required by paragraph (b)(9).

Commodities and services added to the Procurement List normally remain on it indefinitely. The Administration's reinvention of Government initiatives encourage the use of long-term contracts to minimize administrative delay and expense. The Committee proposes to amend its existing regulation (41 CFR 51–6.3) on use of long-term ordering agreements for JWOD commodities to add a paragraph encouraging contracting activities to use the longest contract term available to them when buying commodities or services from the JWOD Program.

The Committee's regulation on military resale commodities (41 CFR 51–6.4) has traditionally identified the specific numbered commodity series to which it applies. The Committee proposes to amend this regulation to include two new series which have been authorized by the Committee for the military resale program.

Regulatory Flexibility Act

I certify that this proposed revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this proposed rule because it contains no information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, the proposed rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects

41 CFR Parts 51–3 and 51–6

Government procurement, Handicapped.

41 CFR Part 51–4

Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Parts 51–3, 51–4, and 51–6 of Title 41, Chaper 51 of the Code of Federal Regulations are proposed to be amended as follows:

1. The authority citation for Parts 51–3, 51–4, and 51–6 continues to read as follows:

Authority: 41 U.S.C. 46–48c.

PART 51–3—CENTRAL NONPROFIT AGENCIES

2. Section 51–3.2 is amended by revising paragraph (c) to read as follows:

§ 51–3.2 Responsibilities under the JWOD Program.

* * * * *

(c) Obtain from Federal contracting activities such procurement information as is required by the Committee to:

(1) Determine the suitability of a commodity or service being recommended to the Committee for addition to the Procurement List; or

(2) Establish an initial fair market price for a commodity or service or make changes in the fair market price.

* * * * *

PART 51–4—NONPROFIT AGENCIES

3. Section 51–4.3 is amended by revising paragraph (b)(2), removing paragraph (b)(9), and redesignating paragraph (b)(10) as (b)(9), to read as follows:

§ 51–4.3 Maintaining qualification.

* * * * *

(b) * * *

(2) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor, including procedures to encourage filling of vacancies within the nonprofit agency by promotion of qualified employees who are blind or have other severe disabilities.

* * * * *

PART 51–6—PROCUREMENT PROCEDURES

4. Section 51–6.3 is amended by revising the section heading, redesignating the existing text of the section as paragraph (a), and adding paragraph (b), to read as follows:

§ 51–6.3 Long-term procurements.

* * * * *

(b) Contracting activities are encouraged to use the longest contract term available by law to their agencies for contracts for commodities and services under the JWOD Program, in order to minimize the time and expense devoted to formation and renewal of these contracts.

5. Section 51–6.4 is amended by revising the second sentence of paragraph (b) and paragraphs (c)(2), (c)(4), and (d) to read as follows:

§ 51–6.4 Military resale commodities.

* * * * *

(b) * * * Authorized resale outlets may stock commercial items comparable to the military resale commodities they stock, except that military commissary stores shall stock military resale commodities in the 800-, 900, and 1000-series exclusively, unless an exception has been granted on an individual store basis for the stocking of comparable commercial items for which there is a significant customer demand.

(c) * * *

(2) Require the stocking in commissary stores of military resale commodities in the 400-, 500-, 800-, 900-, and 1000-series in as broad a range as is practicable.

* * * * *

(4) Establish policies and procedures which reserve to its agency headquarters the authority to grant exceptions to the exclusive stocking of 800-, 900-, and 1000-series military resale commodities.

(d) The Defense Commissary Agency shall provide the Committee a copy of each directive which relates to the stocking of military resale commodities in commissary stores, including exceptions authorizing the stocking of commercial items in competition with 800-, 900-, and 1000-series military resale commodities.

* * * * *

Dated: March 21, 1997.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–7652 Filed 3–26–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387, 390, 391, 392, 395, 396, and 397

[FHWA Docket No. MC–97–3]

RIN 2125–AD72

Review of the Federal Motor Carrier Safety Regulations; Regulatory Removals and Substantive Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 27, 1997 (62 FR 3855), in which the agency requested comments on its intent to remove, amend, and redesignate certain regulations in parts 387, 390, 391, 392, 395, 396, and 397 of the Federal Motor Carrier Safety Regulations (FMCSRs). The comment period for the NPRM was scheduled to close on March 28, 1997. In response to a request for an extension of the comment period, the FHWA is extending the comment period until May 12, 1997.

DATES: Comments must be received no later than May 12, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366–5763, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The first FMCSRs were promulgated in 1937. The FMCSRs have been amended many times during the past 60 years. In September 1992, the FHWA began a comprehensive multi-year project to develop modern, uniform safety regulations that are up to date, clear, concise, easier to understand, and more performance oriented. This project has been named the Zero Base Regulatory Review.

Consistent with the Zero Base project and the President's Regulatory Reinvention Initiative, the FHWA published an NPRM in the **Federal Register** on January 27, 1997 (62 FR 3855), in which the agency requested comments on its intent to remove, amend, and redesignate certain regulations concerning financial responsibility; general applicability and definitions; accident recordkeeping requirements; qualifications of drivers; driving of commercial motor vehicles; hours of service of drivers; inspection, repair, and maintenance; and the transportation of hazardous materials. These regulations were identified as being obsolete, redundant, unnecessary, ineffective, burdensome, more appropriately regulated by State and local authorities, better addressed by company policy, in need of clarification, or more appropriately contained in another section.

The National Tank Truck Carriers, Inc. (NTTC) requested the FHWA to extend the comment period of the NPRM by 30 days. The NTTC explained that it will be holding an annual meeting in early April and a review of the NPRM is planned at the meeting. The timing of the meeting would make the NTTC unable to submit substantive comments to the docket on behalf of its membership by the March 28, 1997, deadline.

The FHWA has decided to grant a 45 day extension of the comment period. Because of the importance of the rulemaking, and the volume and complexity of issues raised in it, the FHWA believes that the public interest would be served by permitting the NTTC, regulated entities and their representative associations and organizations, interested parties, and the public an additional 45 days in which to submit comments. Any additional time beyond 45 days, however, would unnecessarily delay the issuance of the final rule. Accordingly, the FHWA is extending the comment period for this docket until Monday, May 12, 1997.

Authority: 49 U.S.C. 322, 504, 5112, 5125, 31132, 31133, 31136, 31138, 31139, 31502, and 31504; sec. 345, Pub.L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.

Issued on: March 19, 1997.

Jane Garvey,

Acting Administrator, Federal Highway Administration.

[FR Doc. 97–7737 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Status Reviews for the Alexander Archipelago Wolf and Queen Charlotte Goshawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status reviews; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period on the rangewide status reviews for the Queen Charlotte goshawk (*Accipiter gentilis laingi*) and the Alexander Archipelago wolf (*Canis lupus ligoni*) is reopened. The Service solicits any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of these species. The notice of the status reviews was published on December 5, 1996 (61 FR 64496), and extension of the comment period was published December 3, 1996 (61 FR 69065). On February 14, 1997 (62 FR 6930), the public comment period was reopened until March 5, 1997.

DATES: The comment period, previously scheduled to close March 5, 1997 (62 FR 6930), is reopened and will now close on April 4, 1997. Any comments received by the closing date will be considered in the findings on the species' status under the Endangered Species Act.

ADDRESSES: Comments and materials should be sent to Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 3000 Vintage Blvd., Suite 201, Juneau, Alaska 99801–7100.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Woods, 1011 E. Tudor Road, Anchorage, Alaska 99503.

SUPPLEMENTARY INFORMATION:

Background

The Service has prepared draft status reviews for the Queen Charlotte goshawk and the Alexander Archipelago wolf. The information in the reviews will be used in the Service's evaluation

of whether listing either species under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) is warranted. The Queen Charlotte goshawk occurs in forested areas throughout coastal mainland and insular areas of British Columbia, Canada, and southeastern Alaska. The Alexander Archipelago wolf occurs in forested areas of insular and mainland southeast Alaska, from Dixon Entrance (US/Canada border) to Yakutat Bay, including all large islands of the Alexander Archipelago except Admiralty, Baranof, and Chichagof Islands.

The Service is requesting any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of these species. All information regarding the status of these species, including comments received on the draft status reviews will be considered. Please contact Teresa Woods at (907) 786–3505 to obtain a copy of the status reviews.

Author

The primary author of this notice is Teresa Woods, U.S. Fish and Wildlife Service, Alaska Region,1011 E. Tudor Road, Anchorage, Alaska 99503.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Dated: March 20, 1997.

Robyn Thorson,

Acting Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 97–7778 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 62, No. 59

Thursday, March 27, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 21, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affiars, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- **Agricultural Marketing Service**

Title: Specified Commodities Imported into the United States Exempt from Import Requirements, 7 CFR 944, 980, and 999.

OMB Control Number: 0581–0167.

Summary: Importers and receivers provide specific information on agricultural commodities, such as product, variety, place of inspection, quantity and intended use.

Need and Use of the Information: The information is collected to make sure that agricultural products exempt from established grade, size, quality and maturity requirements are used for specified exempt purposes.

Description of Respondents: Business or other for-profit; not-for-profit institutions..

Number of Respondents: 714.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 303.

- **Procurement and Property Management**

Title: Procurement: Key Personnel Clause.

OMB Control Number: 0505–0015.

Summary: The contributions of certain contractor employees may be critical to the success of work contracted for by USDA.

Need and Use of the Information: Contracting officers need to collect information about changes in contractor personnel to ensure satisfactory performance. The contracting officer needs this information to determine whether the departure of a key person from the contractor's staff could make a deleterious effect upon contact performance, and to determine what accommodation or remedies may be taken.

Description of Respondents: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 200.

- **Procurement and Property Management**

Title: Procurement: Progress Reporting Clause.

OMB Control Number: 0505–0016.

Summary: In order to administer contacts for research and development or for advisory and assistance services, contracting officers need information about contractor progress in performing the contracts.

Need and Use of the Information: If contracting officers could not obtain progress report information, they would have to physically monitor the contractor's operations on a day to day basis throughout the performance period. The information is used to compare actual progress and expenditures to anticipated performance and contractors representation on which the award was based.

Description of Respondents: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 200.

Frequency of Responses: Reporting: Monthly, Quarterly.

Total Burden Hours: 3,600.

- **Procurement and Property Management**

Title: Procurement: Maximum Workweek—Construction Schedule.

OMB Control Number: 0505–0011.

Summary: When USDA contracts for construction services, both the contacting office and the contractor need to establish a work schedule. Contracting officers put the Maximum Workweek—Construction Schedule clause in solicitations and contracts for construction when the contractor's access to the work site may be restricted.

Need and Use of the Information: Schedule information allows the office to assign inspectors or representatives to the site when the contractor is actually working on the site.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 600.

Frequency of Responses: Reporting; on occasion.

Total Burden Hours: 150.

- **Procurement and Property Management**

Title: Procurement: Brand Name or Equal Provision and Clause.

OMB Control Number: 0505–0014.

Summary: When it issues a formal solicitation to acquire products, the contracting office includes a specification or purchase description in the solicitation which describes the

product sought and desired characteristics of the product.

Need and Use of the Information: The contracting officer needs information about the salient characteristics of an offeror's product to evaluate whether the offered product is equal to the benchmark product.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 74,838.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 7,484.

- **Procurement and Property Management**

Title: Procurement: Instruction for the Preparation of Business and Technical Proposals.

OMB Control Number: 0505–0013.

Summary: Contracting officers insert this clause in solicitation for products or services which will be awarded by negotiation.

Need and Use of the Information: The contracting officer needs business information from the offeror to evaluate the offeror's capability and responsibility. The technical proposal together with the offeror's pricing is needed to select the offeror who will be awarded a contract.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 3,200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 112,000.

- **Farm Service Agency**

Title: Request for Direct Loan Assistance.

OMB Control Number: 0560–0167.

Summary: Form FSA 410–1, ''Request for Direct Loan Assistance,'' is needed to collect information for making eligibility and financial feasibility determinations on respondents request for direct new loans and for currently indebted borrowers, loan servicing/assistance authorizes under the Consolidated Farm and Rural Development Act, and amended.

Need and Use of the Information: The collected information is used to make eligibility and financial feasibility determinations.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; Federal Government.

Number of Respondents: 44,200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 45,760.

- **Rural Housing Service**

Title: 7 CFR 1944–E, Rural Rental and Cooperative Housing Loan Policies, Procedures, and Authorizations.

OMB Control Number: 0575–0047.

Summary: Information collected includes an application, plans for community development and compliance with fair housing laws, specifications for proposed housing units and costs associated with the project.

Need and Use of the Information: The information is used to evaluate the cost benefits, feasibility, and financial performance of the proposed project, as well as the eligibility of the applicant.

Description of Respondents: Business or other for-profit; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 56,434.

- **Agricultural Marketing Service**

Title: Nectarines Grown in California—Marketing Order No. 916.

OMB Control Number: 0581–0072.

Summary: Information is collected from growers and handlers to nominate committee members, conduct referenda, and specific information related to product shipped.

Need and Use of the Information: The information is used to regulate the provisions of Marketing Order No. 916.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 1,131.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,085.

- **Farm Service Agency**

Title: Peanut Quota Regulations for the 1996 through 2002 crops, 7 CFR 729—Addendum.

OMB Control Number: 0560–0006.

Summary: The information relative to reports and recordkeeping for Form FSA–377 as authorized by the Secretary is used by FSA to obtain a list of producers requesting an out-of-county transfer and when a letter, is required to use the register to obtain the names of producers for inclusion in the lottery.

Need and Use of the Information: Without the collection of information, the affected county FSA offices would have to monitor the approved transfers and terminate such approvals when the transfer limit was reached. This result would cause producers requesting transfers to be approved on a first-come, first-serve basis. USDA has determined that such process would be unfair and difficult to administer at the county level and by regulation has established a selection by lot as the method for limiting out-of-county transfers.

Description of Respondents: Farms; Federal Government.

Number of Respondents: 1,000.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 352,900.

Emergency processing of this submission has been requested by April 15, 1997.

- **Rural Housing Service**

Title: 7 CFR 3570–B ''Community Facilities Grant Program.''

OMB Control Number: 0575–None.

Summary: The information collection includes an agreement for administrative requirements and a statement of inability to obtain credit from other sources.

Need and Use of the Information: The information is used to fulfill the requirements for the community facilities grant program.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 438.

Emergency Processing of This Submission Has Been Requested By March 28, 1997.

- **Rural Utilities Service**

Title: Certification of Authority.

OMB Control Number: 0572–0074.

Summary: Form RUS 675 provides names of individuals in cooperatives who are authorized to sign RUS forms in connection with requisitioning and accounting for construction loan funds.

Need and Use of the Information: The information is used to keep RUS up-to-date on any changes in signature authority and controls the release of funds only to authorized borrowers representatives.

Description of Respondents: Business or other for-profit.

Number of Respondents: 490.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 49.

- **Rural Housing Service**

Title: 7 CFR 1924–A, ''Planning and Performing Construction and Other Development.''

OMB Control Number: 0575–0042.

Summary: Information is collected to describe the planned construction and development work, to describe materials used in construction or repair, to certify payments made, to provide drawings and specifications, and cost estimates.

Need and Use of the Information: The information is used by RHS to determine whether a loan/grant can be approved, to ensure that RHS had adequate security for the loans financed and to provide for sound construction and development work.

Description of Respondents: Individuals and households; business or other for-profit; not-for-profit institutions; farms.

Number of Respondents: 23,223.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 111,882.

- **Food and Consumer Service**

Title: School Nutrition Study.

OMB Control Number: 0584–New.

Summary: This proposed study is designed to examine meals offered by and characteristics of school nutrition programs. Data will be collected from a nationally representative sample of public elementary, middle and high schools during the fall of the 1997–98 school year.

Need and Use of the Information: The data collection and analysis will provide USDA with an up-to-date assessment of the progress of the nation's schools implementing the *Dietary Guidelines* and *Recommended Daily Allowances* in school meats.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 1,581.

Frequency of Responses: Reporting: One-time only.

Total Burden Hours: 9,482.

Donald Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 97–7806 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 97–022–1]

Intent to Issue Veterinary Biological Product Licenses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service intends to issue veterinary biological product licenses to Rhone Merieux, Inc., for four veterinary vaccines intended for use in dogs. This proposed action is consistent with the conclusions of a risk analysis that formed the basis of an environmental assessment and finding of no significant impact prepared prior to the authorization of field trials for those vaccines. With this notice, we are stating our intention to issue veterinary biological product licenses for those vaccines after 14 days from the date of this notice unless new substantial issues bearing on the effects of the action contemplated here are brought to our attention.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact prepared for the field testing of the products may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the docket number of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–5338; fax (301) 734–8910.

SUPPLEMENTARY INFORMATION: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) intends to issue veterinary biological product licenses to Rhone Merieux, Inc., Establishment License No. 298, for four veterinary vaccines intended for use in dogs. These vaccines each contain a canarypox-vectored canine distemper fraction. The true names and product codes of the four vaccines are as follows:

(1) Canine Distemper-Adenovirus Type 2-Coronavirus-Parainfluenza-Parvovirus Vaccine, Modified Live Virus, Canarypox Vector, Leptospira Bacterin (Code 46J9.R1);

(2) Canine Distemper-Adenovirus Type 2-Parainfluenza-Parvovirus Vaccine, Modified Live Virus, Canarypox Vector, Leptospira Bacterin (Code 4639.R1);

(3) Canine Distemper-Adenovirus Type 2-Coronavirus-Parainfluenza-Parvovirus Vaccine, Modified Live Virus, Canarypox Vector (Code 1591.R1); and

(4) Canine Distemper-Adenovirus Type 2-Parainfluenza-Parvovirus Vaccine, Modified Live Virus, Canarypox Vector (Code 13D1.R1).

The products numbered (1) and (3) above were field tested directly. The products numbered (2) and (4) above contain the same components as (1) and (3), respectively, except that they lack the Canine Coronavirus fraction; therefore, they are being licensed based on data generated for the products numbered (1) and (3).

With this notice, APHIS states its intention to issue veterinary biological product licenses for these products after 14 days from the date of this notice unless new substantial issues, bearing on the effects of the action contemplated here, are brought to APHIS' attention.

This proposed action is consistent with the conclusions of a risk analysis, which formed the basis for the environmental assessment (EA) supporting authorization of a field trial using these vaccines. Since the issues raised by authorization of a field trial and by issuance of a product license are identical, and since the field trial data have supported the conclusions of the original EA and finding of no significant impact (FONSI), APHIS has concluded that the EA and FONSI generated for the field trial are also applicable to the proposed licensing actions. Therefore, APHIS does not intend to issue a separate EA to support issuance of product licenses. Based on our original FONSI, reconfirmed here, we have determined that an environmental impact statement need not be prepared.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 21st day of March 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–7809 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Changes in Mammoth Creek Minimum Streamflow Requirements and Point of Measurement, and Changes in Place of Use

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, Department of Agriculture, will prepare an environmental impact statement (EIS) for the proposed amendment to the existing Master Operating Agreement establishing minimum streamflow requirements for Mammoth Creek, and Point of Measurement. The Forest Service, Inyo National Forest, Mono County, California, is acting as joint lead agency on the project, together with the

Mammoth Community Water District (District). Under the California Environmental Quality Act, the District must conduct its own environmental assessment, and has determined that an Environmental Impact Report (EIR) is required. In accordance with Federal and State regulations, a joint EIR/RIS will be prepared. The agency gives notice of the environmental analysis and decision making processes that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments regarding the scope of the analysis must be received by April 30, 1997.

ADDRESSES: Submit written comments and suggestions concerning the proposed action to the responsible official, Dennis Martin, Forest Supervisor, Inyo National Forest, 873 North Main Street, Bishop, California 93154, Attn. MCWD EIR/EIS.

FOR FURTHER INFORMATION CONTACT: Direct questions about this environmental impact statement to Thom Heller, Special Use Permit Administrator, Inyo National Forest, P.O. Box 148, Mammoth Lakes, California 93546, or telephone (619) 924–5513.

SUPPLEMENTARY INFORMATION: The proposed action consists of two specific components: 1) a change in the minimum streamflow requirements for Mammoth Creek and the point of measurement, and 2) a change in the District's authorized Place of Use (POU) for Mammoth Creek water. The change in minimum streamflow requirements and point of measurement result in both state and federal actions that require CEQA and NEPA documentation. Although addressed in the joint EIR/EIS, the change in the POU is a state action only, and not subject to NEPA. Three alternatives are currently being considered: changing the minimum streamflow requirements to the schedule shown on Table 2 (Proposed action); changing the minimum streamflow requirements to an alternative, three-flow schedule; and not changing the minimum streamflow requirements (no action).

Public participation will be specially important at several points during the analysis. The first point is the scoping process (40 CFR 1501.7). The Forest Service has and is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft EIR/EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (e.g., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

Mailings to individuals and agencies that participate in the above planning efforts will provide them with information about the proposed project. Public meetings, if held, will be announced locally. Federal, State, and local agencies, user groups and other organizations who would be interested in the study will be invited to participate in scoping the issues that should be considered.

The draft EIR/EIS is scheduled to be completed by September, 1997. The comment period on this draft EIR/EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** It is very important that those interested in the proposed action participate at that time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposed action so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519 (1978). Also, environmental objections that could be raised at the draft EIR/EIS stage but that are not raised until after completion of the final EIR/EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E. D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIR/EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIR/EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the draft EIR/EIS or the merits of the alternatives formulated and discussed in the document. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIR/EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIR/EIS, which is expected to be completed by December, 1997. The Forest Service is required to respond in the final EIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, and environmental consequences discussed in the final EIS and applicable laws, regulations, and policies in making his decision on the proposal.

The decision will either be approval of the proposed action as submitted, approval of the proposed action as modified, or denial of the proposed action (No. Action). If the proposal is approved, the existing Memorandum of Agreement would be modified and the revised minimum flow requirements for Mammoth Creek would be approved. The responsible official will document the decision and rationale in the Record of Decision. The decision will be subject to appeal under 36 CFR 215 or regulations applicable at the time of the decision.

Dated: March 21, 1997.

Dennis W. Martin,

Forest Supervisor.

[FR Doc. 97–7773 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–11–M

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on April 17, 1997 at the J. Herbert Stone Nursery, 2606 Old Stage Road, Central Point, Oregon. The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Update on coarse woody material standard implementation; (2) COHO

Salmon management status by State of Oregon; (3) South Cascades Late Successional Reserve Assessment presentation; (4) Advisory Committee critique evaluation and recommendations, and (5) Public comments. All Province Advisory committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee Staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Dated: March 19, 1997.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 97–7739 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–11–M

Use of Certified Forage To Prevent the Spread of Noxious Weeds on National Forest System Lands in Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy; request for public comment.

SUMMARY: The Regional Forester for the Northern Region of the Forest Service is proposing a requirement that would prohibit the use of hay, grain, straw, cubes or pelletized feed on National Forest System lands in Montana unless it is certified as free of noxious weeds or noxious weed seeds may be used. This requirement will affect such users as recreationists using pack and saddle stock, ranchers operating under Forest Service grazing permits, outfitters and guides operating under Forest Service permits, and contractors who use straw or hay for reseeding or erosion control purposes on National Forest System administered lands in Montana. This proposal has been developed in coordination with the State of Montana and Bureau of Land Management Montana State office, which is publishing a similar proposal in a separate notice in this same issue of today's **Federal Register**. The intended effect is to coordinate prevention of the spread of undesirable weeds on federal lands in Montana.

DATES: Comments must be received in writing by March 26, 1997.

ADDRESSES: Send written comments to Regional Forester, Forest Service, USDA, P.O. Box 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION CONTACT: James Olivarez, Forest and Rangeland Staff, Northern Region, Forest Service, (406) 329–3621.

SUPPLEMENTARY INFORMATION: Noxious weeds are a serious problem in the western United States. Species like Leafy Spurge, Spotted Knapweed, Musk Thistle, Purple Loosestrife, and others are alien to the United States and have no natural enemies to keep their populations in balance. Consequently, these undesirable weeds invade healthy ecosystems, displace native vegetation, reduce species diversity, and destroy wildlife habitat. Widespread infestations lead to soil erosion and stream sedimentation. Furthermore, noxious weed invasions weaken reforestation efforts, reduce forage for domestic and wild ungulates, occasionally irritate public land users by aggravating allergies and other ailments, and threaten federally protected plants and animals.

To curb the spread of noxious weeds, a growing number of Western states have jointly developed noxious weed-free forage certification standards and, in cooperation with various Federal, State and county agencies, have passed weed control laws. Because hay and other forage products containing noxious weed seed are part of the infestation problem, Montana has developed a hay inspection, certification, and identification process; participates in a regional inspection, certification, and identification process; and encourages forage producers to grow products free of noxious weed seeds.

Pursuant to 36 CFR § 261.50, the Regional Forester may issue orders to close or restrict uses on National Forest System lands. If adopted, this proposed requirement to close National Forest System lands to users who do not use a certified weed-free forage or similar product would result in a standard closure order applicable to all National Forest System lands in Montana. The Northern Regional Forester has been implementing a similar policy on a forest-by-forest-basis in Montana since 1989. As a result of cooperative efforts between the State, the Forest Service, and the Bureau of Land Management (BLM) Montana State Office, BLM is proposing a similar standard requirement for all public lands under its jurisdiction. The BLM proposal appears in a separate notice in this issue of today's **Federal Register**.

The Forest Service invites written comment and suggestions on this proposal, which will be considered prior to adoption of a final policy and issuance of a closure order. Notice of the final decision will be published in the **Federal Register**.

Dated: March 11, 1997.

Kathleen A. McAllister,

Deputy Regional Forester, R–1.

[FR Doc. 97–7754 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Grain Inspection Advisory Committee.

Date: April 16–17, 1997.

Place: Department of Agriculture, 1400 Independence Avenue, S.W., Room 107–A, Jamie L. Whitten Federal Building, Washington, D.C.

Time: 8:30 a.m. April 16–17.

Purpose: To provide advice to the Administrator of the Grain Inspection, Packers and Stockyards Administration (GIPSA) with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71 et seq.).

The agenda includes: (1) GIPSA Financial Status, (2) Overview of International Monitoring Staff, (3) Fee Schedule for Export Elevators, (4) Hedge to Arrive Contracts, (5) Equipment Approval Process, (6) Status of Electronic Data Entry Activities, (7) Grain Inspection Automation Policy, (8) Moisture Instrument Selection Update, and (9) Online Presentation of the GIPSA Homepage.

The meeting will be open to the public. Public participation will be limited to written statements, unless permission is received from the Committee Chairman to orally address the Committee. Persons, other than members, who wish to address the Committee or submit written statements before or after the meeting, should contact the Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 3601, Washington, D.C. 20250–3601, telephone (202) 720–0219 or FAX (202) 205–9237.

Dated: March 20, 1997.

James R. Baker,

Administrator.

[FR Doc. 97–7740 Filed 3–26–97; 8:45 am]

BILLING CODE 3410–EN–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: April 2, 1997.

TIME: 1:00 PM.

PLACE: National Archives, Room 105, 7th and Pennsylvania Avenue, Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: Status and Disposition of the Zapruder Film.

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Assistant Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 97–7982 Filed 3–25–97; 3:06 pm]

BILLING CODE 6118–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 3:00 p.m. on Thursday, April 17, 1997, at the Baltimore City Hall, Norman Reeves Conference Room 400, 100 North Holliday Street, Baltimore, Maryland 21202. The purpose of the meeting is to select a new project and develop planning for upcoming activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Chester L. Wickwire, 410–825–8949, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 17, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–7745 Filed 3–26–97; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 3:00 p.m. on Monday April 14, 1997, at the Law Offices of Nixon, Raiche, Manning and Branch, 77 Central Street, Manchester, New Hampshire 03101. The purpose of the meeting is to decide on a new project and develop planning for upcoming activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert Raiche, 603–669–7070, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 17, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–7746 Filed 3–26–97; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 8:00 p.m. on Friday, April 18, 1997, at the Holiday Inn, Fair Oaks Mall, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033. The purpose of the meeting is to plan a factfinding report on the treatment of African Americans by the criminal justice system in Hampton and Newport News and to decide on future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Jessie Rattley, 757–727–5647, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 18, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–7747 Filed 3–26–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Robert A. Vance; Order Denying Permission To Apply for or Use Export Licenses

In the matter of: Robert A. Vance, 326 South Benson Road, Fairfield, Connecticut 06430.

On July 31, 1996, Robert A. Vance (Vance) was convicted in the United States District Court for the District of Connecticut of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1996)) (IEEPA) and the Export Administration Act of 1979, as amended (50 U.S.C.A. app. sections 2401–2402 (1991 & Supp. 1996)) (the Act).[1] Vance was convicted of knowingly and willfully exporting and causing to be exported gear type fuel pumps from the United States to Germany for transshipment to Libya through the Republic of Malta, and of making false and misleading statements on export control documents.

Section 11(h) of the Act provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating IEEPA or the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (61 FR 12734–13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730–774) (the

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995, (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 FR 42527, August 15, 1996), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

Regulations),[3] for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA or the Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Vance's conviction for violating IEEPA and the Act, and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny Vance permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on July 31, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which Vance had an interest at the time of his conviction.

Accordinlgy, *it is hereby ordered*

I. Until July 31, 2006, Robert A. Vance, 326 South Benson Road, Fairfield, Connecticut 06430, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Vance by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until July 31, 2006.

VI. A copy of this Order shall be delivered to Vance. This Order shall be published in the **Federal Register**.

Dated: March 10, 1997.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–7803 Filed 3–26–97; 8:45 am]

BILLING CODE 3510–DT–M

[3] The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the former Regulations, codified at 15 C.F.R. Parts 768–799 (1996), as 15 C.F.R. Parts 768A–799A.

Action Affecting Export Privileges; Thomas Doyle; Order Denying Permission to Apply for or use Export Licenses

In the Matter of: Thomas Doyle, 612 South Brooksvale Road, Cheshire, Connecticut 06410.

On July 31, 1996, Thomas Doyle (Doyle) was convicted in the United States District Court for the District of Connecticut of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1996)) (IEEPA) and the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1996)) (the Act).[1] Doyle was convicted of knowingly and willfully exporting and causing to be exported gear type fuel pumps from the United States to Germany for transshipment to Libya through the Republic of Malta, and of making false and misleading statements on export control documents.

Section 11(h) of the Act provides that, at the discretion of the Secretary of Commerce, [2] no person convicted of violating IEEPA or the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, included in License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (61 FR 12734–13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730–774) (the Regulations),[3] for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA or the Act,

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 FR 42527, August 15, 1996), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to the appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

[3] The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the former Regulations, codified at 15 C.F.R. Parts 768–799 (1996), as 15 C.F.R. Parts 768–799A.

the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Doyle's conviction for violating IEEPA and the Act, and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny Doyle permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on July 31, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which Doyle had an interest at the time of his conviction.

Accordingly, *it is hereby ordered*

I. Until July 31, 2006, Thomas Doyle, 612 South Brooksvale Road, Cheshire, Connecticut 06410, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Doyle by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provision of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until July 31, 2006.

VI. A copy of this Order shall be delivered to Doyle. This Order shall be published in the **Federal Register**.

Dated: March 10, 1997.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–7804 Filed 3–26–97; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

[I.D. 032097D]

South Atlantic Fishery Management Council; Meetings.

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical Committee (SSC), Joint Mackerel Committee and Mackerel Advisory Panel, Mackerel Committee, Highly Migratory Species Committee, Statement of Organization Practices and Procedures (SOPPs) Committee, Bluefish Committee, Snapper Grouper Committee, Habitat and Environmental Committee, Advisory Panel Selection Committee (closed session), and a Council session.

DATES: The meetings will be held from April 14-18, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Tybee Island Town Hall, 403 Butler Avenue, Tybee Island, GA: telephone: (912) 786-4573.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan_buchanan@safmc.nmfs.gov.

SUPPLEMENTARY INFORMATION:

Meeting Dates

April 14, 1997, 1:30 p.m. to 6:00 p.m.—Scientific and Statistical Committee;

The SSC Committee will meet to receive a report on the Mackerel Stock Assessment, discuss the Assessment and formulate recommendations to the Council, review Snapper Grouper Amendment 9 options, review the Bluefish Assessment and proposed actions, and revisit the Amberjack Assessment.

April 14, 1997, 6:30 p.m. until all business is complete—Atlantic Coast Cooperative Statistics Program (ACCSP)

Scoping Meeting

As a partner in the ACCSP, the Council will hold a scoping meeting to solicit public input on ways to improve commercial and recreational fisheries data collection.

April 15, 1997, 8:30 a.m. to 12:00 noon—Joint Mackerel Committee and Mackerel Advisory Panel;

The advisory panel will develop recommendations for setting total allowable catch and bag limits and other framework items as necessary.

April 15, 1997, 1:30 p.m. to 3:30 p.m.—Mackerel Committee; The Committee will meet to hear the status of last year's framework action, Amendment 8 and current landings, develop recommendations on formulating total allowable catches and bag limits, develop recommendations on other framework items as necessary, discuss mackerel Amendment 9, and receive an update on mackerel tournament data.

April 15, 1997, 3:30 p.m. to 5:30 p.m.—Highly Migratory Species Committee;

The Committee will meet to review and comment on Amendment 1 to the Shark Fishery Management Plan, which deals with implementing limited access for the shark fishery, and Amendment 1 to the Swordfish Fishery Management Plan (FMP), and to hear the status of NMFS highly migratory species advisory panels.

April 16, 1997, 8:30 a.m. to 10:30 a.m.—SOPPs Committee; The Committee will meet to discuss the Magnuson-Stevens Act mandates requiring changes to the Council's SOPPs, and will approve necessary changes.

April 16, 1997, 10:30 a.m. to 12:00 noon—Bluefish Committee;

The Committee will review the Bluefish Assessment, Review Amendment 1 to the Bluefish FMP, and approve Amendment 1 for public hearing.

April 16, 1997, 1:30 p.m. to 5:30 p.m.—Snapper Grouper Committee;

The Committee will review new material in the Snapper Grouper Amendment document, review the SSC position on the Greater Amberjack Assessment, and approve Amendment 9 for public hearing.

April 17, 1997, 8:30 a.m. to 10:30 a.m.—Habitat and Environmental Protection Advisory Panel;

The Committee will review previous Habitat Advisory Panel recommendations and develop Council options for addressing essential fisheries habitat.

April 17, 1997, 10:30 a.m. to 12:00 noon—Advisory Panel Selection Committee (closed session);

The Committee will develop recommendations for advisory panel member appointments.

April 17, 1997, 1:30 p.m. to 5:30 p.m.—Council Session; The full Council will meet at 1:45 p.m. to hear the Mackerel Committee Report, take public comment on mackerel total allowable catches (TACs), bag limits and other framework actions, set mackerel TACs and bag limits, and take action on other framework items as necessary; at 3:00 p.m., to hear the Highly Migratory Committee Species report and formulate Council comments on Shark Amendment 1 and Swordfish Amendment 1; at 3:30 p.m., to hear the SOPPs Committee report and approve changes in the Council SOPPs for submission to the Secretary of Commerce; at 4:00 p.m., to hear the Habitat Committee report and develop council options for addressing essential fisheries habitat; at 4:30 p.m., to hear the Snapper Grouper Committee report and approve Snapper Grouper Amendment 9 for public hearing.

April 18, 1997, 8:30 a.m. to 12:00 noon—Council Session; The full Council will meet at 8:30 a.m. to hear the Advisory Panel Selection Committee report in closed session and appoint advisory panel members; at 9:00 a.m., to hear the Bluefish Committee report and approve Bluefish Amendment 1 for public hearing; at 9:30 a.m., to hear the Executive Committee report, approve an implementation schedule for Sustainable Fisheries Act provisions; hear a request from the Department of the Navy; and approve guidelines for holding informal meetings with fishermen. From 10:30 a.m. to 12:00 noon, the Council will hear a status report of the ACCSP, agency and liaison reports, and discuss other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by April 7, 1997.

Dated: March 21, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–7822 Filed 3–26–97; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 032197A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for modification 3 to incidental take permit 844 (P503I).

SUMMARY: Notice is hereby given that the Idaho Department of Fish and Game in Boise, ID (IDFG) has applied in due form for modification 3 to permit 844 authorizing an incidental take of a threatened species associated with sport-fishing activities.

DATES: Written comments or requests for a public hearing on the modification application must be received on or before April 28, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Environmental and Technical Services Division, Portland.

SUPPLEMENTARY INFORMATION: IDFG requests modification 3 to permit 844 under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

For modification 3 to permit 844, IDFG (P503I) requests authorization for an increase in the incidental take of adult, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with the opening of two sport fisheries on the Little Salmon River and the Clearwater River in Idaho. The fisheries are proposed to target adult, non-listed, hatchery-produced spring chinook salmon in these watersheds. The primary source of take would be the incidental catch and release of ESA-listed spring/summer chinook salmon that may be present in the fishery areas during the fisheries. IDFG will maintain efforts to minimize the impacts to ESA-listed fish, including public information, biological monitoring, and enforcement. An increase in the incidental mortality of adult, ESA-listed, Snake River spring/summer chinook salmon is also requested. Modification 3 is requested to be valid in 1997 only. Permit 844 expires on April 30, 1998.

Those individuals requesting a hearing on the permit modification request should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant

Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: March 21, 1997.

Joseph R. Blum,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–7744 Filed 3–26–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Rescission, Amendment and Redesignation of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

March 21, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs cancelling, increasing and amending the coverage of limits.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

In a Memorandum of Understanding (MOU) dated March 5, 1997, the Governments of the United States and the Republic of the Philippines agreed to rescind the limit for Category 239 for the period January 1, 1997 through December 31, 1997. Also, the two governments agreed to amend the coverage of Group II to include Categories 361, 369–S and 611 and to increase the 1997 Group II limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 64507, published on December 5, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and the MOU, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 21, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on March 28, 1997, you are directed, to rescind the 1997 limit and import charges for textile products in Category 239, pursuant to the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and the Memorandum of Understanding dated March 5, 1997 between the Governments of the United States and the Republic of the Philippines.

Also, you are directed to amend the Group II designation to include the coverage of Categories 361, 369–S [1] and 611. Categories 361, 369–S and 611 shall be sublevels in Group II. Import charges already made to these categories shall be moved to Group II. The 1997 limit for Group II shall be increased to 164,785,038 square meters equivalent [2].

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–7775 Filed 3–26–97; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 369–S: only HTS number 6307.10.2005.

[2] The limits have not been adjusted to account for any imports exported after December 31, 1996.

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Notice That Delivery Point: Specifications Must Be Amended

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of, and request for public comment on, response of the Chicago Board of Trade to Notification to amend delivery specifications.

SUMMARY: The Commodity Futures Trading Commission (Commission), by letter dated December 19, 1996, notified the Board of Trade of the City of Chicago (CBT), under section 5a(a)(10) of the Commodity Exchange Act (Act), 7 U.S.C. 7a(a)(10), that the delivery terms of the CBT corn and soybean futures contracts no longer accomplish the objectives of that section of the Act. Under section 5a(a)(10), the CBT was required to respond by March 4, 1997, seventy-five (75) days from the date of the notice.

By letter dated March 4, 1997, from Patrick H. Arbor to Chairperson Brooksley Born, the CBT responded by providing to the Commission a status report of its actions. In that response, the CBT reported that a ''working alternative'' had been approved by the exchange board and would be forwarded to the membership for a vote.

On March 14, 1997, the Commission provided notice of the CBT's working alternative in order to provide the public with an opportunity to comment to the Commission on it (62 FR 12156). The Commission has determined to extend the comment period for an additional fifteen (15) days.

DATES: Comment must be received by April 15, 1997.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, attention, Office of the Secretariat; transmitted by facsimile at (202) 418–5521, or transmitted electronically at secretary@cftc.gov. Reference should be made to ''Corn and Soybean Delivery Points.''

FOR FURTHER INFORMATION, CONTACT: Blake Imel, Acting Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, telephone (202) 418–5260, or electronically, Mr. Architzel at Parchitzel@cftc. gov.

SUPPLEMENTARY INFORMATION: The Commission has determined to extend the public comment period for the subject notice. The Commission believes that an extension of the comment period until April 15 would permit interested parties to fully evaluate the proposal and to submit their comments thereon to the Commission.

Issued in Washington, DC, on March 21, 1997.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–7805 Filed 3–26–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Code Committee Meeting

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee established by Article 146(a), Uniform Code of Military Justice, 10 U.S.C. § 946(a), to be held at 10:00 a.m. on March 31, 1997 in the Court Conference Room, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, D.C. 20442–0001. The agenda for this meeting will include consideration of proposed changes to the Uniform Code of Military Justice and the Manual for Courts-Martial, United States, 1984, as well as other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Forces.

DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, DC 20442–0001, telephone (202) 761–1448.

Dated: March 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–7735 Filed 3–26–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 27, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 21, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Part H Longitudinal Study: Characteristics, Services, and Outcomes of Infants, Toddlers, and Families.

Frequency: On occasion, Semi-annually, and Annually.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 11,182.

Burden Hours: 4,020.

Abstract: Data are being collected for a nationally representative sample of infants and toddlers served in early intervention under Part H of Individuals with Disabilities Education Act and their families. Data will be collected from families, service records, and service providers. Findings will inform policy and practice regarding early intervention for young children with disabilities and their families.

[FR Doc. 97–7770 Filed 3–26–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Source, Inc., et al.; Orders Granting Authorization to Import and/or Export Natural Gas

[FE Docket Nos. 93–82–NG, 97–15–97, 97–12–NG, 94–22–NG, 97–11–NG, 94–13–NG, 96–16–NG, 95–122–NG, 97–18–NG, 97–13–NG, 97–14–NG, 97–16–NG, 97–21–NG, 97–19–NG, 93–81–NG, and 97–17–NG]

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued Orders authorizing various imports and/or exports of natural gas. These Orders are summarized in the attached appendix.

These Orders are available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m.,

Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on March 12, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
836–B	02/06/97	Energy Source, Inc.; 93–82–NG			Administrative change.
1248	02/12/97	Big Sky Gas Marketing Corporation; 97–15–NG.	44 Bcf	44 Bcf	Import and export from and to Canada.
1249	02/12/97	Stampeder Energy (U.S.); 97–12–NG	100 Bcf	100 Bcf	Import/export from and to Canada and Mexico.
		94–22–NG	10 Bcf LNG		
1250	02/12/97	Sonat Marketing Company L.P.; 97–11–NG	100 Bcf		Import from Canada.
940–A	02/13/97	EPEM Marketing Company; 94–13–NG			Name change.
1159–A	02/13/97	EPEM Marketing Company; 96–16–NG			Name change.
1138–A	02/13/97	EPEM Marketing Company; 95–122–NG ...			Name change.
1251	02/13/97	Cabot Oil & Gas Marketing Corporation; 97–18–NG.	10 Bcf		Import from Canada.
1252	02/13/97	Petro-Canada HydroCarbons Inc.; 97–13–NG.	300 Bcf		Import from Canada.
1255	02/14/97	Eagle Gas Marketing LLC; 97–14–NG	25 Bcf	25 Bcf	Import and export from and to Canada.
1256	02/20/97	UMC Petroleum Corporation; 97–16–NG ...	44 Bcf	44 Bcf	Import and export from ano Canada.
1257	02/21/97	Boundary Gas, Inc.; 97–21–NG	(1) 67.5 Bcf		Import/export combined total from and to Canada.
1258	02/21/97	Canwest Gas Supply U.S.A., Inc.; 97–19–NG.	(1) 400 Bcf		Import/export combined total from and to Canada.
1259	02/26/97	Midland Cogeneration Venture Limited Partnership; 93–81–NG.	Vacated		Vacated.
		97–17–NG	200 Bcf		Import/export combined total from and to Canada.

[FR Doc. 97–7791 Filed 3–26–97; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 97–20–NG]

Enron Capital & Trade Resources Corp.; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Enron Capitol & Trade Resources Corp. (ECT) long-term authorization to import up to 15,400 MMcf of natural gas per day from Canada commencing November 1, 1997, and terminating November 1, 2007. The natural gas shall be imported under a supply arrangement with Enron Capital & Trade Resources Canada Corp. This natural gas may be imported at any point on the border of the United States and Canada.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 20, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 97–7793 Filed 3–26–97; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 97–23–NG]

Stone Consolidated Corporation; Order Granting Long-Term Authorization to Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Stone Consolidated Corporation (Stone Consolidated) long-term authorization to import and export up to 1095 MMcf of natural gas annually from Canada commencing on the first day of the month after approval of the authorization and continuing through October 31, 2002. The natural gas will be imported and exported under a supply arrangement with TransCanada Gas Services Limited. This natural gas may be imported at Warroad, Minnesota/Sprague, Manitoba and exported at Baudette, Minnesota/Rainy River, Ontario, or any other points on the border of the United States and Canada.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 20, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 97–7792 Filed 3–26–97; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. F–088]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Nordyne

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–088) granting a Waiver to Nordyne from the existing Department of Energy (DOE or Department) test procedure for furnaces. The Department is granting Nordyne's Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its G5RD and G5RL series furnaces.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9138 or Mr. Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Nordyne has been granted a Waiver for its G5RD and G5RL series furnaces permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on March 19, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order—Department of Energy, Office of Energy Efficiency and Renewable Energy

In the Matter of: Nordyne (Case No. F–088).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Nordyne filed a ''Petition for Waiver,'' dated September 6, 1996, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the **Federal Register** on October 22, 1996, Nordyne's Petition and solicited comments, data and information respecting the Petition. 61 FR 54783, October 22, 1996. Nordyne also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on October 15, 1996. 61 FR 54783, October 22, 1996.

No comments were received concerning either the ''Petition for Waiver'' or the ''Application for Interim Waiver.'' The Department consulted with The Federal Trade Commission (FTC) concerning the Nordyne Petition. The FTC did not have any objections to the issuance of the waiver to Nordyne.

Assertions and Determinations

Nordyne's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Nordyne requests the allowance to test using a 30-second blower time delay when testing its G5RD and G5RL series furnaces. Nordyne states that since the 30-second delay is indicative of how these models actually operate, and since such a delay results in an improvement in AFUE of approximately 2.0 percent, the Petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Nordyne indicates that it is unable to take advantage of any of these exceptions for its G5RD and G5RL series furnaces.

Since the blower controls incorporated on the Nordyne furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current test procedure provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Nordyne G5RD and G5RL series furnaces. Accordingly, with regard to testing the G5RD and G5RL series furnaces, today's Decision and Order exempts Nordyne from the existing test procedure provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered That:

(1) The ''Petition for Waiver'' filed by Nordyne (Case No. F–088) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, Nordyne shall be permitted to test its G5RD and G5RL series furnaces on the basis of the test procedure specified in 10 CFR Part 430, with modifications set forth below:

(I) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas-and Oil-Fueled Central Furnaces. The following paragraph is in

lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Nordyne shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the G5RD and G5RL series furnaces manufactured by Nordyne.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

(5) Effective March 19, 1997, this Waiver supersedes the Interim Waiver granted Nordyne on October 15, 1996. 61 FR 54783, October 22, 1996 (Case No. F–088).

Issued in Washington, DC, on March 19,1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–7794 Filed 3–26–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–289–000]

Freeport Interstate Pipeline Company; Notice of Petition for Waiver

March 21, 1997.

Take notice that on March 11, 1997, Freeport Interstate Pipeline Company (Freeport) filed with the Commission a request for waiver for filing a FERC Form 2–A for the year 1996.

Freeport states that it has no throughput of any kind and performed no services of any kind for 1996 and has remained dormant since March 1994 and because Freeport had previously been exempted from the Commission's electronic-posting requirements, it would be a undue burden and hardship for Freeport to file a FERC Form 2–A for the year 1996, particularly under the Commission's new regulations for such filings.

Freeport respectfully requests that the Commission waive any requirement under 18 CFR 260.2 or otherwise for Freeport to file a FERC Form 2–A for the year 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed on or before March 28, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7760 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–174–001]

Gulf States Transmission, Corporation; Notice of Petition for Waiver of GISB Standards and Proposed Changes in FERC Gas Tariff

March 21, 1997.

Take notice that on March 18, 1997, Gulf States Transmission Corporation (GSTC) tendered for filing a petition for waiver of certain Gas Industry Standards Board (GISB) standards, first and foremost those associated with electronic data interchange and electronic delivery mechanism (EDI/EDM) and also capacity release. GSTC also tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, certain tariff sheets to be effective June 1, 1997.

GSTC states that the purpose of the filing is to comply with the Commission's compliance order issued March 5, 1997 in Docket No. RP97–174–000.

GSTC has modified its tariff to (i) incorporate certain Standards by reference to number and version of such Standards, (ii) insert, verbatim, language from certain other GISB Standards, (iii) change each of Mcf to Dekatherms as required by GISB Standard 1.2.2.

GSTC states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7762 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OA97–503–000]

Intermountain Rural Electric Association; Notice of Filing

March 21, 1997.

Take notice that on January 23, 1997, Intermountain Rural Electric Association tendered for filing requests for waivers and conditional notice of withdrawal of tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 31, 1997. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7764 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–320–009]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 21, 1997.

Take notice that on March 18, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing to be part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets:

Effective February 5, 1997: Fourth Revised Sheet No. 29

Effective March 1, 1997: Fifth Revised Sheet No. 29

Koch states that this filing contains the tariff sheet which provides the additional information required by the Commission's March 7, 1997, Order Rejecting Tariff Sheet. Koch states this filing also provides the tariff sheet which removes the negotiated rate contracts effective March 1, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7758 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–292–000]

Louisiana Nevada Transit Company; Notice of Petition for Waiver

March 21, 1997.

Take notice that on March 18, 1997, Louisiana Nevada Transit Company (LNT) pursuant to the March 4, 1997, Order on Compliance Filing, issued by the Commission, and in accordance with Order Nos. 587 and 587–B, tendered for filing a request for waiver of any and all standards that required the use or support of any Electronic Data Interchange ASC X12 (EDI) format, electronic delivery mechanism (EDM) to transmit EDI datasets, Internet usage, as well as any other related requirement (referred to collectively as EDI/EDM) because compliance with such standards would force LNT into bankruptcy.

LNT states that the specific standards for which LNT seeks a waiver are listed in Appendix A to the filing.

LNT states that copies of the filing have been served upon all parties required to be served.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 28, 1997. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7759 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–238–000]

Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, L.L.C.; Notice of Application

March 21, 1997.

Take notice that on March 18, 1997, Portland Natural Gas Transmission System (PNGTS), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039, and Maritimes & Northeast Pipeline, L.L.C. (Maritimes), 1284 Soldiers Field Road, Boston, Massachusetts 02135, (together as joint applicants), completed the filing of a joint application in Docket No. CP97–238–000 for a certificate of public convenience and necessity, pursuant to Section 7(c) of the Natural Gas Act, to construct and operate jointly-owned pipeline facilities for the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The completion of the joint application, originally filed February 10, 1997, was preceded by two public conferences at the Commission and four letters from the Office of Pipeline Regulation (OPR) requesting the information required to complete the filing. The joint applicants request that the Commission issue a preliminary determination on non-environmental issues by May 31, 1997, and a certificate by August 31, 1997.

Specifically, joint applicants seek authorization to construct about:

—99.8 miles of 30-inch pipeline and appurtenant facilities from Dracut, Massachusetts to Westbrook, Maine;

—a 3.8 mile, 12-inch lateral at Westbrook, Maine (Westbrook Lateral);

—a 1.36 mile, 16-inch lateral near Newington, New Hampshire (Newington Lateral);

—a 0.6 mile, 20-inch interconnecting line at Haverhill, Massachusetts (Haverhill Lateral);

—eight meter and regulation stations, and other appurtenant facilities

The estimated cost of the joint pipeline proposal is $172.4 million.

PNGTS will be responsible for the engineering, design, and construction management of the jointly-owned pipeline, and Maritimes will be designated as the operator, including field operations and gas dispatching. The cost and ownership of the joint pipeline facilities will be based upon the ration of each owner's allocated capacity. The total capacity of the joint pipeline is 631,860 Mcf per day, with 421,860 Mcf per day allocated to Maritimes and 210,000 Mcf per day allocated to PNGTS. The proposed laterals off the joint pipeline will be part of the jointly-owned facilities and will be sized according to each owner's requirements. The cost allocation of the laterals will be based on the ratio of each owner's capacity through the lateral. The cost and ownership ratios are in the following table.

Facilities	Maritimes (percent)	PNGTS (percent)
Mainline	66.76	33.24
Westbrook Maritimes Meter	100.00	0.00
Westbrook PNGTS Meter	0.00	100.00
Dracut Meter and Modifications	67.69	32.31
Wells Meter	89.09	10.91
Westbrook Lateral	63.35	36.65
Granite State Meter at Westbrook	41.10	58.90
Newington Lateral	41.10	58.90
Granite State Meter at Newington	0.00	100.00
PSNH Meter at Newington	50.00	50.00
Haverhill Lateral	1.42	98.58
Tennessee Meter at Haverhill	0.00	100.00

Each owner will be responsible for recovering all of its share of costs and expenses of the joint pipeline facilities through rates proposed in its related filings in Docket Nos. CP96–178–000, *et al.* (Maritimes), CP96–809–000 (Maritimes), and CP96–249–000, *et al.* (PNGTS). The Joint Pipeline facilities will be operated in accordance with each of the owner's separate tariffs proposed in their respective filings listed above.

The joint applicants each amended their original proposals to address the impacts of the joint application. Maritimes' amendments were filed on February 24, 1997, and PNGTS' amendment was filed on March 18, 1997. Separate notices of these amendments will be issued. However, certain information which is needed to complete the processing of this application remains to be filed.[1] Complete and accurate filing of that information on the schedule stated in the joint applicants' March 18, 1997, filing is essential for the expeditious processing of these applications.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1997 file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

[1] See the March 21, 1997, OPR Director's letter to the joint applicants.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the joint applicants to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7788 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–282–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

March 21, 1997.

Take notice that on March 10, 1997, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP97–282–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon by removal measurement facilities located in Carter County, Kentucky, under Tennessee's blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to abandon the facilities, including the meter, piping and appurtenant facilities, which were installed and placed in service in June 1949 to serve Inland Gas Corporation (Inland), for the sale of natural gas for resale to the public for residential, commercial and industrial uses. It is stated that no gas has flowed through the meter since 1987. It is asserted that Inland was the only customer served by the facilities, and a letter was included in the application from Columbia Gas of Kentucky, Inc. (Columbia), successor in interest to Inland, showing Columbia's consent to the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7766 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–286–000]

Transwestern Pipeline Company; Notice of Application

March 21, 1997.

Take notice that on March 12, 1997, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O.

Box 1188, Houston, Texas, 77251–1188, pursaunt to Section 7(c) of the Natural Gas Act (NGA), filed an application with the Commission in Docket No. CP97–286–000 for a certificate of public convenience and necessity to modify and operate certain compressor units at the design horsepower (HP) level, in order to increase operational efficiency and capacity on that portion of Transwestern's system described as the San Juan Lateral, all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Specifically, Transwestern proposes to increase the horsepower of three replacement Solar T7002 gas turbines at the Bloomfield Compressor Station near Bloomfield, New Mexico, to a design capacity level of 7,000 ISO (4,400 site rated) HP. Each unit was rated at 6,500 ISO (4,132 site rated) HP at the time of its installation, however, due to advanced technology, the replacement units are rated at a 7,000 ISO HP capacity level. The increase in horsepower will be achieved by mechanically readjusting the degree of pitch on the inlet guide vanes of the replacement gas turbine drivers. Transwestern estimates that the capital cost to modify the subject units at the Bloomfield Compressor Station will be approximately $24,000, which will be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should, on or before April 11, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the processing. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the request should be granted. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7761 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–262–000]

Unocal Corporation; Notice of Issuance of Order

March 21, 1997.

Unocal Corporation (Unocal) submitted for filing a rate schedule under which Unocal will engage in wholesale electric power and energy transactions as a marketer. Unocal also requested waiver of various Commission regulations. In particular, Unocal requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Unocal.

On March 19, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Unocal should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Unocal is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Unocal's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 18, 1997.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7765 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–254–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

March 21, 1997

Take notice that on February 19, 1997, as supplemented March 13, 1997, Williams Natural Gas Company (WNG) P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–254–000 a request pursuant to Section 157.205, 157.212(a) and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authorization to replace and relocate the Commerce town border setting, (2) to abandon by reclaim the Cardin and Treece town borders, and (3) to abandon by sale to Western Resources, Inc. (WRI) six town border meter settings, three domestic settings [1] and related service, located in Ottawa County, Oklahoma and Cherokee County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, WNG seeks authorization to replace the WRI Commerce town border setting with a triple run 3-inch meter setting and relocate it to the site of WNG's high pressure regulator in Ottawa County, Oklahoma. WNG states that replacing the existing meter setting with a triple-run will provide more accurate measurement at low volumes as well as reducing maintenance and measurement reading time. WNG states that the cost to replace the Commerce town border setting is estimated to be $122,830.

[1] WNG originally proposed to abandon, by sale to WRI, four domestic settings. However, in its supplement WNG indicates that after further research, it has determined that one of the meters will not be affected by the proposed abandonment.

WNG also seeks authorization to reclaim the WRI Cardin and Treece town borders located in Ottawa County, Oklahoma and Cherokee County, Kansas, respectively. WNG states that installing the new Commerce town border will eliminate the need for individual measurement at the Cardin and Treece town borders.

Additionally, WNG proposes to abandon in place, by sale to WRI, the Commerce town border, the North Commerce town border, Alsop Industrial Sales, the Century town border, the Mineral Heights town border and the Picher town border, all located in Ottawa County, Oklahoma, three domestic settings and related service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant, to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7763 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC97–19–000, et al.]

Long Island Lighting Company, et al.; Electric Rate and Corporate Regulation Filings

March 20, 1997.

Take notice that the following filings have been made with the Commission:

1. Long Island Lighting Company

[Docket No. EC97–19–000]

Take notice that on March 17, 1997, Long Island Lighting Company (LILCO) tendered for filing pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. Sec 824b (1994), and Part 33 of the Commission's Regulations, 18 CFR Part 33, an Application for an order approving a proposed reorganization.

Pursuant to an ''Amended and Restated Agreement and Plan of Exchange, by and among LILCO Holding Corp., The Brooklyn Union Gas Company and Long Island Lighting Company,'' dated as of February 6, 1997, LILCO and The Brooklyn Union Gas Company (Brooklyn Union) propose a tax-free, stock transaction under which the shares of LILCO and Brooklyn Union will be exchanged for shares of a newly created holding company. According to the Applicant, LILCO and Brooklyn Union will continue to be operated as separate subsidiaries of the new holding company. LILCO states that, except to the extent that the new holding company will hold all of LILCO's common stock, no jurisdictional facilities are being transferred as a result of the proposed transaction. LILCO further states that it has submitted the information required by Part 33 of the Commission's regulations in support of the application.

Comment date: May 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Power Exchange Corporation, GDK Corporation, and Burlington Resources Trading, Inc.

[Docket Nos. ER95–72–008, ER96–1735–002, and ER96–3112–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On March 3, 1997, Power Exchange Corporation filed certain information as required by the Commission's February 1, 1995, order in Docket No. ER95–72–000.

On February 13, 1997, GDK Corporation filed certain information as required by the Commission's June 26, 1996, order in Docket No. ER96–1735–000.

On March 6, 1997, Burlington Resources Trading, Inc. filed certain information as required by the Commission's November 14, 1996, order in Docket No. ER96–3112–000.

3. Public Service Company of Colorado

[Docket Nos. ER96–2582–001 and ER96–2587–000]

Take notice that on March 12, 1997, Public Service Company of Colorado (PSColorado) tendered for filing (1) the Second Amendment to Amended Power Purchase Agreement between Utilicorp United Inc. and Public Service Company of Colorado; and (2) a revised page of the Specifications for Firm Point-to-Point Service to the Service Agreement for Firm Point-to-Point Transmission Service between Public Service Company of Colorado and Utilicorp United Inc. (WestPlains Energy), dated as of July 31, 1996 with an accompanying letter agreement. PSColorado states that it is making this filing to comply with the Commission's order issued in Docket No. ER96–2582–000 on January 10, 1997.

Comment date: April 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Sunoco Power Marketing, L.L.C.

[Docket No. ER97–870–000]

Take notice that on January 22, 1997, Sunoco Power Marketing, L.L.C. tendered for filing an amendment in the above-referenced docket.

Comment date: April 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Charles W. Mueller

[Docket No. ID–2721–001]

Take notice that on March 3, 1997, Charles W. Mueller, (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions: Officer and Director, Union Electric Company; Director, Boatmen's National Bank.

Comment date: April 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. John Peters MacCarthy

[Docket No. ID–2734–000]

Take notice that on February 18, 1997, John Peters MacCarthy (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions: Director, Union Electric Company; Director, Boatmen's Trust Company.

Comment date: April 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Janet McAfee Weakley

[Docket No. ID–2989–000]

Take notice that on February 18, 1997, Janet McAfee Weakley, (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions: Director, Union Electric Company; Director, Boatmen's Trust Company.

Comment date: April 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions

or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7757 Filed 3–26–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5803–8]

National Drinking Water Advisory Council Consumer Confidence Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given for upcoming meetings of the Consumer Confidence Working Group of the National Drinking Water Advisory Council (established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*)), to be held April 3, 1997, from 1:00 p.m. to 5:00 p.m. and April 4, 1997, from 9:00 a.m. to 5:00 p.m. at the Westin City Center, 1400 M Street NW, Washington, DC; and May 8, 1997, from 9:00 a.m. to 5:00 p.m. and May 9, 1997, from 9:00 a.m. to 3:00 p.m. at the Dupont Plaza Hotel, 1500 New Hampshire Ave. NW, Washington DC.

The purpose of the meetings is to discuss drafts of rule language and attendant documents. The meetings are open to the public, but seating is limited. Statements from the public will be taken at the end of the meeting if time allows.

For more information, please contact, Francoise M. Brasier, Designated Federal Officer, Consumer Confidence Working Group, U.S. EPA, Office of Ground Water and Drinking Water 5606, 401 M Street SW, Washington, D.C. 20460. The telephone number is Area Code 202–260–5668. The e-mail address is brasier.francoise & epamail.epa.gov.

Dated: March 12, 1997.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 97–7816 Filed 3–26–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight fowarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 10573.

Anchor Shipping and Chartering Co., 5619 Hazen Street, Houston, TX 77081, Ronny Gene Mollard, Sole Proprietor

Nick Rendon III International Inc., 139 Mitchell Avenue, Ste. 216, So. San Francisco, CA 94080, Officer: Nicholas Rendon III, President

Cargo America Group, Ltd., 4702 Lucerne Valley Road, Lilburn, Georgia 30247, Officers: Troy Abercrombie, President, Wanda Abercrombie, President

Dated: March 24, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–7779 Filed 3–26–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 21, 1997.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. BanPonce Corporation, Hato Rey, Puerto Rico; Poplar International Bank, Inc., Hato Rey, Puerto Rico; and BanPonce Financial Corp., Wilmington, Delaware; to acquire 100 percent of the voting shares of CBC Bancorp, Ltd., Chicago, Illinois, and thereby indirectly acquire Capitol Bank of Westmont, Westmont, Illinois, and Capitol Bank and Trust, Chicago, Illinois.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Florida Bancshares, Inc., Dade City, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Pasco, Dade City, Florida.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579

1. Pierce County Bancorp, Tacoma, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Pierce Commercial Bank, Tacoma, Washington (in organization).

Board of Governors of the Federal Reserve System, March 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–7768 Filed 3–26–97; 8:45 am]

BILLING CODE 6210–01F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0487]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 27, 1996 (61 FR 68268), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). OMB has now approved the information collection and has assigned OMB control number 0910–0336. The approval expires on February 28, 2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: March 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–7726 Filed 3–26–97; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Nonprescription Drugs Advisory Committee

Date, time, and place. April 15, 1997, 8 a.m.; Holiday Inn—Gaithersburg, Goshen Room, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 1:30 p.m.; open public hearing 1:30 p.m. to 2:30 p.m., unless public participation does not last that long; open committee discussion, 2:30 p.m. to 5 p.m.; closed committee deliberations, 5 p.m. to 6 p.m.; Andrea G. Neal, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 1, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a possible association between vaginal douching and adverse consequences. FDA is aware of a number of case-control epidemiologic studies in the literature that suggest a possible association between vaginal douching and several conditions, such as pelvic inflammatory disease, ectopic pregnancy, and cervical cancer (letter from D. Bowen, FDA, to R. W. Soller, Nonprescription Drug Manufacturers Association, LET 105, Docket No. 75N–0183, Dockets Management Branch). The committee's discussion will include issues relating to behavioral, epidemiological, and microbiological aspects of vaginal douching. Regulatory issues related to over-the-counter vaginal-douche drugs, cosmetics, and devices (douching equipment) will also be addressed.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to pending investigational new drugs applications (IND's) or new drug applications (NDA's). This portion of the meeting will be closed to permit discussion of this information. (5 U.S.C. 552b (c)(4)).

Dermatologic and Ophthalmic Drugs Advisory Committee

Date, time, and place. April 17 and 18, 1997, 8:30 a.m., Holiday Inn—Gaithersburg, Grand Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, April 17, 1997, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5:30 p.m.; closed presentation of data, April 18, 1997, 8:30 a.m. to 11 a.m.; closed committee deliberations, 11 a.m. to 1 p.m.; Tracy Riley or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Dermatologic and Ophthalmic Drugs Advisory Committee, code 12534. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 11, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the

approximate time required to make their comments.

Open committee discussion. On April 17, 1997, the committee will hear presentations and discuss the teratogenicity and labeling issues regarding approved NDA 19–821 for Soriatane (acitretin capsules, Hoffman-LaRoche, Inc.) for use in treating severe psoriasis.

Closed presentation of data. On April 18, 1997, the committee will hear trade secret and/or confidential commercial information relevant to pending IND's or NDA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. On April 18, 1997, the committee will review trade secret and/or confidential commercial information relevant to pending IND's and/or NDA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 21, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–7790 Filed 3–26–97; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Special Project Grants; Traumatic Brain Injury Demonstration Grants

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of availability of funds.

SUMMARY: The HRSA announces that approximately $2.8 million in fiscal year (FY) 1997 funds will be available for demonstration projects to improve access to health and other services for people who have sustained a traumatic brain injury (TBI). Discretionary grants

to States are authorized under section 1252 of the Public Health Service (PHS) Act, as amended by Public Law 104–166 (42 USC 300d-52), which provides for the conduct of expanded studies and the establishment of innovative programs with respect to TBI. Funds for TBI State demonstration projects are appropriated by Public Law 104–208. At present, funding for this program is available for one year. Within the HRSA, TBI grants are administered by the Maternal and Child Health Bureau (MCHB).

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS lead national activity for setting priority areas. The TBI grant program will directly address the Healthy People 2000 objectives related to chronic disabling conditions, particularly in relation to service system expansion and objectives related to secondary injury prevention. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 Midcourse Review and 1995 Revisions (Stock No. 017–001–00526–6) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone: 202–512–1800).

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

ADDRESSES: **Federal Register** notices and application guidance for MCHB programs are available on the World Wide Web via the Internet at address: http://www.os.dhhs.gov/hrsa/mchb. Click on the file name you want to download to your computer. It will be saved as a self-extracting (Macintosh or) WordPerfect 5.1 file. To decompress the file once it is downloaded, type in the file name followed by a <return>. The file will expand to a WordPerfect 5.1 file.

For applicants for TBI Demonstration Grants who are unable to access application materials electronically, a hard copy (Revised PHS form 5161–1, approved under OMB clearance number 0937–0189) may be obtained from the HRSA Grants Application Center. The Center may be contacted by: Telephone Number: 1–888–300-HRSA, FAX Number: 301–309–0579, E-mail Address: HRSA.GAC@ix.netcom.com. Completed applications should be returned to: Grants Management Officer (CFDA #93.TBA–1), HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850.

DATES: The application deadline date is May 30, 1997. Competing applications will be considered to be on time if they are either: (1) received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or the U.S. Postal Service, or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information from MCHB should be directed to the Division of Maternal, Infant, Child and Adolescent Health (DMICAH), Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. The DMICAH telephone number for TBI inquiries is 301–443–5559. Requests for information concerning fiscal, business or administrative management issues should be directed to: Maria E. Carter, Grants Management Specialist, Grants Management Branch, Maternal and Child Health Bureau, 5600 Fishers Lane, Room 18–12, Rockville, Maryland 20857, telephone: 301–443–3268.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

In July, 1996, Congress enacted Public Law 104–166, ''to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury'' (TBI). Under Public Law 104–166, a program of grants to States for demonstration projects to improve access to health and other TBI-related services for people of all ages is established within HRSA. The National Institutes of Health has responsibility for conducting basic and applied research regarding TBI. Responsibility for activities related to prevention of TBI is assigned to the Centers for Disease Control and Prevention. Information on CDC grant activities which relate to TBI surveillance may be obtained from David J. Thurman, M.D., M.P.H., Division of Acute Care, Rehabilitation Research, and Disability Prevention, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, Mailstop F–41, Atlanta, GA 30341, telephone: 770–488–4031. Public Law 104–166 also mandates a national consensus conference of appropriate PHS agencies to study a range of TBI-related issues, including development of a uniform reporting system, evaluation of the effectiveness of common therapeutic interventions, assessment of the adequacy of existing outcome measures, and development of practice guidelines for rehabilitation.

The law requires any State seeking TBI demonstration grant funds to agree to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State. The Board's composition is specified; it must include: representatives of the involved State agencies; public and nonprofit private health related organizations; disability advisory or planning groups; members of an organization or foundation representing TBI survivors; State and local injury control programs if they exist, and a substantial number of TBI survivors or their family members. The State must also make available matching funds, in cash non-Federal contributions, in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

Definitions

1. *State:* For purposes of this grant program, the term ''State'' includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

2. *Traumatic Brain Injury:* For purposes of this grant program ''Traumatic Brain Injury'' (TBI) means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

3. *Survivor:* For purposes of this grant program the term ''survivor'' refers to a person who has sustained and has survived a traumatic brain injury.

4. *Person-and family-centered care:* For purposes of this grant program ''person-and family-centered care'' requires: involvement of survivors and their families in all phases of the TBI continuum of care; clear and continuous communication between family members and the care team; attention to the psychosocial needs of survivors and family members; and cultural competence of providers.

5. *Core Capacity:* Core capacity includes 4 components: (1) a statewide TBI Advisory Board which meets the requirements set forth earlier in this Notice; (2) designation of a State agency and a designated staff position responsible for State TBI activities; (3) a Statewide needs assessment of the full spectrum of care/services from initial acute treatment through community reintegration for individuals with TBI; and (4) a Statewide action plan to develop a comprehensive, community-based system of care that encompasses physical, psychological, educational, vocational, and social aspects of TBI services and addresses the needs of the family as well as the TBI survivor.

Eligible Applicants

Only State governments are eligible to apply for funding under the TBI demonstration grant program. The application for implementation funds may only come from the State agency designated as the lead for TBI services, while planning grant applications may emanate from an agency or office within the State responsible for planning and/or program coordination. The involvement of the State MCH program in both grant categories is expected.

Only one application from each State may enter the review process and be considered for an award under this program.

Funding Categories

Approximately $2.8 million will be available in FY 1997 to fund two categories of grants—Category 1: State planning grants; and Category 2: State implementation grants.

The major funding emphasis is on implementation activities which will move States toward Statewide systems that assure access to comprehensive and coordinated TBI services. It is recognized, however, that States are in different stages of development and that some will need assistance in establishing infrastructure as a prerequisite to implementation. Therefore, planning grants, as well as implementation grants, are being offered.

Applicants may apply for either Category 1 or Category 2 funding as appropriate, but not both.

Category (1): State Planning Grants

Planning grants are intended to support the development of 4 State level core capacity components to provide TBI services (see DEFINITIONS section, above). States may apply for a planning grant for one year. Up to 15 planning grants will be awarded. Planning grants will range from $20,000 to $75,000 per year. States should apply for an amount within that range which is appropriate to their needs in establishing full core capacity.

Category (2): State Implementation Grants

Implementation grants are intended for States that have the 4 core capacity components in place. These grants will support activities that represent the next logical step(s) in building a Statewide system to assure access to comprehensive and coordinated TBI services.

Implementation grants can address a wide range of activities and should reflect gaps or needed system enhancements identified through the Statewide TBI needs assessment. The grant may be used for Statewide implementation or targeted implementation in a specific locality within the State prior to Statewide implementation. Proposals under this category may address one or more of the following:

—Develop and implement protocols for point of entry personnel to improve early identification and appropriate triage, care and management of patients.

—Develop a replicable, pre-discharge model to be used in acute care sites in the development of long term resource plans for TBI survivors. Such a model should include person- and family-centered care coordination and resource management services.

—Develop and implement a plan to increase the number of public and private payers, including major managed care plans in the State, which will coordinate financial resources to provide services that most effectively meet the needs of TBI survivors.

—Improve data collection through: linking existing data systems; improving information on currently underserved populations; or improving ongoing tracking of service needs, patient outcomes, or program evaluation.

—Develop and implement education and training programs to address various stages of recovery along the continuum of care (acute care, rehabilitation, education, vocational, psychosocial, long term care and community reintegration) for survivors, families, and/or professionals. Such programs are expected to recognize culturally diverse populations, address currently underserved populations, and promote person- and family-centered care.

—Develop (or translate), implement and evaluate materials specifically directed at TBI survivors and their families to meet the specific needs of low literacy and culturally or ethnically distinct populations.

—Increase interagency collaboration and linkages to improve access to comprehensive individual and family-centered services along the continuum of care.

Up to 8 State implementation grants, not to exceed $200,000 per grant for a one-year period, will be awarded in FY 1997. The planned project period for State implementation grants is one year.

Applicants should be aware that, at present, funding for this program is available only for one year. Therefore, applicants must clearly identify the accomplishments they can achieve in one year's time and identify approaches that could be used to continue activities in the absence of future Federal funding. If additional Federal funds become available in the next fiscal year, planning grants will be considered for renewal for up to an additional year and implementation grants will be considered for renewal for an additional two years. If applicants will require greater than one year to complete their projects,they should include proposed plans for their second and third years of funding in their applications.

Special Concerns

HRSA's Maternal and Child Health Bureau places special emphasis on improving service delivery to people from communities with limited access to comprehensive care. In order to assure access and cultural competence, projects must involve individuals from the populations to be served in the planning and implementation of the project. The Bureau's intent is to ensure that project interventions are responsive to the cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB.

Evaluation Protocol

A project awarded as part of the TBI Demonstration Grants program is expected to incorporate a carefully designed and well planned evaluation protocol capable of demonstrating and documenting measurable progress toward achieving the project's stated goals. The protocol should be based on a clear rationale relating the grant activities, the project goals, and the evaluation measures. Wherever

possible, the measurements of progress toward goals should focus on health outcome indicators, rather than on intermediate measures such as process or outputs. A project lacking a complete and well-conceived evaluation protocol as part of the planned activities may not be funded.

Project Review and Funding

The Department will review applications in the preceding categories as competing applications and will fund those which, in the Department's view, are consistent with the statutory purpose of the program, which best promote a comprehensive and coordinated system that assures access to appropriate care for TBI survivors and their families, and which address achievement of applicable Healthy People 2000 objectives related to chronic disabling conditions and secondary injury prevention.

Review Criteria

Specific review criteria have been established for each of the two TBI demonstration grant categories as follows:

Category 1: State Planning Grants

—The strength of the required Statewide Advisory Board as evidenced by:
  —The composition of the Board.
  —Commitments from all identified organizations or individuals.
  —Organizational and meeting arrangements.
—The adequacy of the State's proposed method for developing a Statewide needs assessment that includes—and a plan of action that emphasizes—the physical, psychosocial, educational, vocational and social needs of TBI survivors and their families.
—The adequacy of the State's proposed method for linking its plan of action to the findings of the Statewide needs assessment.
—The extent to which the proposal reflects the involvement of necessary public/private organizations and agencies to assure a comprehensive approach.
—The qualifications and experience established for the designated lead person for TBI within the State.
—The reasonableness of the proposed budget, soundness of the arrangements for fiscal management, effectiveness of use of personnel and likelihood of project completion within the proposed grant period.
—The adequacy of proposed methodology to assure full core capacity is developed during the grant period.

Category 2: State Implementation Grants

—The adequacy of the State's evidence that the four components for core capacity are in place.
—The relevance of the goals and objectives to the identified needs described in the Statewide needs assessment.
—The soundness of the plan for evaluating progress in achieving project objectives and outcomes.
—The adequacy of the plan for organizing and carrying out the project, including: (a) Reasonableness of proposed budget and soundness of the plan for fiscal management; (b) adequacy of proposed methodology for achieving project goals and outcome objectives; and (c) qualifications and experience of the Project Director and staff.
—The extent to which the involvement and participation of TBI survivors, families and organizations are considered in project implementation.
—Extent of collaboration and coordination among the entities in the TBI continuum identified by the State as necessary to carry out the proposed plan.
—The extent to which the project involves a multi-disciplinary and multi-system approach to TBI development.
—Adequacy of the plan for sustaining the proposed project.

Allowable Costs

The HRSA may support reasonable and necessary costs of TBI Demonstration Grant projects within the scope of approved projects. Allowable costs may include salaries, equipment and supplies, travel, contracts, consultants, and others, as well as indirect costs as negotiated. The HRSA adheres to administrative standards reflected in the Code of Federal Regulations, 45 CFR Part 92 and 45 CFR Part 74.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR Part 100 for a description of the review process and requirements).

The OMB Catalog of Federal Domestic Assistance number is 93.TBA–1.

Dated: March 21, 1997.

Claude Earl Fox, M.D., M.P.H.,

Acting Administrator.

[FR Doc. 97–7727 Filed 3–26–97; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

1997/98 World Health Organization Study of Health Behavior in School Children (WHO–HBSC)

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH) is publishing this notice to solicit public comment on the data collection proposed for U.S. participation in the ''1997/98 World Health Organization Study of Health Behavior in School Children (WHO–HBSC)'' for the Epidemiology Branch. To request copies of the data collection plans and instruments, call Dr. Mary Overpeck, (301) 496–1711 (not a toll-free number).

Comments are invited on: (a) Whether the proposed collection is necessary, including whether the information has a practical use; (b) ways to enhance the clarity, quality, and use of the information to be collected; (c) the accuracy of the agency estimate of burden of the proposed collection; and (d) ways to minimize the collection burden of the respondents. Written comments are requested within 60 days of the publication of this notice. Send comments to Dr. Mary Overpeck, Epidemiology Branch, Division of Epidemiology, Statistics, and Prevention Research (DESPR), NICHD, NIH, Building 6100, Room 7B03, 6100

Executive Boulevard, Bethesda, MD 20892.

Proposed Collection

The Division of Epidemiology, Statistics, and Prevention Research intends to conduct the U.S. component of the ''1997/98 World Health Organization Study of Health Behavior in School Children (WHO–HBSC).'' The DESPR is authorized by Section 452 of Part G of Title IV of the Public Health Service Act (42 USC 288) as amended by the NIH Revitalization Act of 1993 (Pub. L. 103–43).

The information proposed for collection will be used by the NICHD to analyze differences in risk factors and determinants of injuries and other health related behavior for the early- to mid-adolescent age group across the majority of developed countries.

Est. No. of respondents	No. of responses per respondent	Avg. burden hrs. per response	Est. total annual burden hrs.
12,000	1	0.75	9,000

No direct costs to the respondents themselves or to participating schools other than their time are anticipated. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

COMMENT DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before May 27, 1997.

Dated: March 20, 1997.

Benjamin E. Fulton,

Executive Officer, NICHD.

[FR Doc. 97–7724 Filed 3–26–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the National Deafness and Other Communication Disorders Advisory Council and Its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on May 7–9, 1997, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on May 7 from 2 p.m. until 3 p.m. for the discussion of policy issues. The meeting of the full Council will be open to the public on May 8 from 8:30 a.m. until approximately 4 p.m. for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders, and on May 9 from 8:30 a.m. until approximately 10:00 a.m. for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Public law 92–463, the meeting of the Planning Subcommittee on May 7 will be closed to the public from 3 p.m. to adjournment. The meeting of the full Council will be closed to the public on May 9 from approximately 10 a.m. until adjournment. The meetings will include the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meeting may be obtained from Dr. Craig A. Jordan, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MSC7180, Bethesda, Maryland 20892, 301–496–8963. A summary of the meeting and rosters of the members may also be obtained from his office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Jordan at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: March 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–7722 Filed 3–26–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Notice of Meeting, Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on May 18–20, 1997, at the National Institutes of Health, Building 36, Conference Rooms 1B07–13, 36 Convent Drive, Bethesda, MD 20892.

This meeting will be open to the public from 8:15 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m. on May 19th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8:00 p.m. to 10:00 p.m. on May 18th, and from 8:30 a.m. until adjournment on May 20th, for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. John Seachrist, Federal Building, Room 1012, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Executive Secretary, Dr. Story Landis, Director, Division of Intramural Research, NINDS, Building 36, Room 5A05, National Institutes of Health, Bethesda, MD 20892, telephone (301) 435–2232, will furnish a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: March 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–7721 Filed 3–26–97; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health

Office of Research on Women's Health; Cancellation of Meeting—''Beyond Hunt Valley: Research on Women's Health for the 21st Century''

Notice is hereby given that the Office of Research on Women's Health, Office of the Director, National Institutes of Health, meeting scheduled to be held on April 5, 6, and 7, 1997, at the Pyramid Crowne Plaza Hotel, Albuquerque, New Mexico and published in **Federal Register** Notice (62 FR 8033) on February 21, 1997 has been cancelled.

Dated: March 18, 1997.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 97–7723 Filed 3–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4230–N–01]

Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission: Meeting Notice

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting.

SUMMARY: This notice announces the upcoming meetings of the Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Tuesday, April 1, 1997 at 3:00 p.m.

ADDRESSES: Enoch Davis Community Center, 1111 18th Avenue South, St. Petersburg, FL 33712.

PURPOSE: The agenda of this meeting consists of reports by the Federal Interagency Task Force Coordinator, State Interagency Coordinator and City Revitalization Coordinator. The Commission will vote to adopt the mission and goals statement and make recommendations on currently funded interagency programs.

SUPPLEMENTARY INFORMATION:

Background. The Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission was established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App., as amended, and the implementing regulations of the General Services Administration (GSA), 41 CFR Part 101–6 to advise the Federal Department and agencies participating as members on the St. Petersburg Federal Task Force. Fifteen days advanced notice of this meeting could not be provided because of the desire of the Advisory Commission to expeditiously proceed with its business.

Open Meeting. The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to the Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission, 25 A 9th Street South, St. Petersburg, FL 33705.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Owens, Coordinator, Federal Interagency Task Force on St. Petersburg, 25 A 9th Street South, St. Petersburg, FL 33705, (813) 893–7201.

Dated: March 6, 1997.

Stephanie A. Owens,

Coordinator.

[FR Doc. 97–7738 Filed 3–26–97; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Tenth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces resolutions and documents submitted by the United States for consideration at the tenth regular meeting of the Conference of the Parties (COP10) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). A separate Federal Register notice announces U.S. proposals to amend the CITES Appendices, also submitted for consideration at COP10.

ADDRESSES: Dr. Susan S. Lieberman, Chief, Operations Branch, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 430–C, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, Chief, Operations Branch, Office of Management Authority, U.S. Fish and Wildlife Service, telephone 703–358–2095; electronic mail; R90MA__CITES@MAIL.FWS.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species that are or may become threatened with extinction, and are listed in Appendices to the Convention. Currently, 134 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties (COP), which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention. The tenth regular meeting of the Conference of the Parties to CITES (COP10) will be held in Harare, Zimbabwe, June 9–20, 1997.

The Fish and Wildlife Service (Service) hereby publishes the list of resolutions and documents submitted to the CITES Secretariat by the United States for consideration at COP10. At this time, the Service has not been provided with all of the resolutions or species listing proposals submitted by the other CITES Parties. Once this information has been received from the CITES Secretariat, the Service will publish it in another notice, and call for public comments on proposed U.S. negotiating positions.

This is part of a series of notices that, together with public meetings, allow the public to participate in the development of the U.S. positions for COP10. A **Federal Register** notice published on March 1, 1996 (61 FR 8019): (1) Announced the time and place for COP10; (2) solicited recommendations for amending CITES Appendices I and II; and (3) solicited suggestions for resolutions and agenda items for discussion at COP10. A **Federal Register** notice published on June 14, 1996 (61 FR 30255) announced a public meeting on July 19, 1996, to discuss an international study of the effectiveness of CITES, and the availability for public comment of a questionnaire as part of the study. A **Federal Register** notice published on August 28, 1996 (61 FR 44332): (1) contained the provisional agenda for COP10; (2) listed potential proposed resolutions and agenda items that the United States was considering submitting for discussion at COP10; (3) invited comments and information from

the public on these potential proposals; (4) announced a public meeting to discuss species proposals and proposed resolutions and agenda items that the United States was considering submitting for discussion at COP10; and (5) provided information on how non-governmental organizations based in the United States can attend COP10 as observers. A separate, concurrent **Federal Register** notice published on August 28, 1996 (61 FR 44324), invited comments and information from the public on possible U.S. proposals to amend the CITES Appendices at COP10. The Service's regulations governing this public process are found in Title 50 of the Code of Federal Regulations §§ 23.31–23.39.

What follows is a discussion of resolutions and documents submitted by the United States for consideration at COP10 and a summary of written information and comments received in response to the **Federal Register** notice of August 28, 1996. Copies of resolutions and species proposals submitted by the United States are available on request, electronically or in paper form, by contacting the Office of Management Authority at the address above. A separate, concurrent Federal Register notice describes the species proposals that the United States submitted for consideration at COP10.

Comments on the possible COP10 agenda items and resolutions that the Service considered submitting were received from 16 organizations: Nine wildlife conservation organizations, three commercial animal exhibitors, one zoological association, one sport-hunting organization, one pet industry association, and a bird hobbyist group. A summary of public comment for each resolution or agenda item is presented below. Those who would like to know in detail what was submitted on a given question may consult the individual submissions, available from the Office of Management Authority upon request at the above address. All resolutions and documents submitted by the Service also took into consideration the views and comments of other affected Federal agencies.

Resolutions Submitted by the United States

1. Permits and Certificates

The ninth meeting of the Conference of the Parties adopted Resolution Conf. 9.3, a consolidation of nine prior resolutions pertaining to the standardization of permits and certificates. Resolution Conf. 9.3 has turned out to be lengthy, difficult to use, and unclear in parts. The differences in interpretation that have resulted are creating problems with consistent implementation of the Convention among Parties. To address this, the United States has submitted a resolution that clarifies and reorganizes Resolution Conf. 9.3 using annexes. The U.S. draft resolution clarifies that most provisions of the resolution apply to all permits and certificates (other than certificates of origin), not just export permits and reexport certificates. It also proposes a change in the text of the current resolution to emphasize the need for the data on CITES permits and certificates to be in the same format as used in CITES annual reports. It redefines source code ''F'' to include animals born in captivity (F1 or greater) that do not fulfill the definition of ''bred in captivity'' in Resolution Conf. 2.12. The resolution also adds new purpose and source codes to elicit additional information and to conform with annual report data (''L'' for Law Enforcement and ''O'' for pre-Convention specimens); allows for the use of multiple source and purpose codes when appropriate; and allows for the issuance of permits and certificates for more than one type of activity, provided the accompanying CITES document clearly indicates the type of activity for each specimen. The August 28, 1996, **Federal Register** notice referenced the recommendation of one organization that the Service clarify the relationship of CITES permitting provisions with those of other conventions relating to marine species, as regards paragraphs 4 and 5 of Article XIV. The Service agrees that the relationship of CITES permitting provisions with those of other conventions relating to marine species, as set forth in Article XIV of the CITES treaty, needs further discussion. For this and many other reasons, the United States also submitted a resolution recommending the establishment of a Marine Fishes Working Group. (For a discussion of the Marine Fishes Working Group, see item number 13 below.) During the comment period, one wildlife conservation organization concurred in the need to reorganize and clarify Resolution Conf. 9.3, and supported redefining source code ''F'' to distinguish ''born in captivity'' from ''bred in captivity.'' No further comments were received. After reviewing the U.S. draft and suggesting changes, the Secretariat indicated that, although they support the U.S. recommendations, they would not have sufficient time to incorporate the Permits and Certificates text into their recommendations to the Parties; thus necessitating a U.S. resolution.

2. Implementation of Article VII, Paragraph 2: Pre-Convention

Article VII, paragraph 2 of the Convention provides an exemption from Articles III, IV, and V for any specimen acquired before the provisions of the Convention applied to that specimen. The resolution currently in effect on this issue (Resolution Conf. 5.11) allows Parties to consider accession dates and reservations in determining whether a specimen was acquired before the Convention applied to that specimen, with the result that sometimes the same specimen is considered ''pre-Convention'' by one country, but subject to the provisions of Articles II, IV, or V of the Convention by another. This situation has increased the risk of infractions, created opportunities for the laundering of specimens, particularly of Appendix-I species, and placed an additional administrative burden on Management Authorities when the exporting, re-exporting, and importing Parties disagree over a particular specimen. To remedy this, the United States submitted a draft resolution eliminating accession dates and reservations as factors for consideration in the issuance of pre-Convention certificates and establishing the date the species was first included in the CITES Appendices as the pre-Convention date. Three wildlife conservation organizations provided comments in favor of standardizing the pre-Convention date for a species; however, one noted their concern that this be done in a way that does not encourage acceding countries to enter large numbers of reservations. The Service consulted the Secretariat on a draft of this resolution, and incorporated useful comments received from them prior to submission of the proposed resolution.

3. Sale of Appendix-I Tourist Items at International Airports, Seaports, and Border Crossings

Merchants in places of international departure such as airports and seaports continue to sell tourist souvenirs of Appendix-I species, despite the fact that these items cannot be legally exported or imported by the traveler purchasing them. In addition, some of these items are offered in ''duty-free'' areas beyond customs control points. The resultant enforcement problem, either intentionally or unintentionally, promotes trade in species listed on Appendix I. In an earlier **Federal Register** notice, the Service stated that it had originally believed that this issue could be addressed directly by the Secretariat through its ongoing educational efforts. However, public

comment following the August 28, 1996, **Federal Register** notice was unanimous in the view that the United States should raise this issue at COP10. Four wildlife conservation organizations submitted comment—three urged the United States to reconsider submitting a resolution, and one of those characterized the Service approach as ''a bit naive.'' The fourth organization felt the issue would be appropriately addressed in a decision document. The Service agrees that this issue should be brought to the attention of the Parties; based on further discussion and the foregoing comments, the United States submitted a draft resolution urging Parties to take all necessary steps to prohibit the sale of tourist souvenirs of Appendix-I species in places of international departure and in ''duty-free'' areas beyond customs control points, including prominent displays of information in places of international departure and inspection, and provision of information to merchants.

4. Establishment of Committees

This proposed resolution was not mentioned in earlier **Federal Register** notices because the question of committee membership did not arise as an issue until very recently, with the result that public comment was neither solicited nor received. However, after discussions with other governments, the CITES Secretariat, and consultations with the U.S. Departments of State and Commerce, the Service submitted a draft resolution to amend the resolution that established the Animals and Plants Committees (Resolution Conf. 9.1.). As currently written, Resolution Conf. 9.1 establishes that the membership of the Animals and Plants Committees shall consist of *persons* chosen by the major geographic regions. In the view of the United States, it is more appropriate that Committee members be Party *governments because:* (1) States are members of the Convention, not individuals; (2) it is not standard practice for non-governmental organizations to serve as a members of official working committees of international treaties (although, in some cases, regions have selected individuals who are employed by or are representatives of non-governmental organizations); (3) the work of the Committees has become more policy oriented, requiring participation by representatives authorized to speak for an accountable to Party States on critical issues; and (4) it is difficult to replace an individual member without consulting an entire region or waiting until the next meeting of the Conference of the Parties. The U.S. draft resolution recommends that membership on the Animals and Plants Committees be restricted to Parties to the Convention, as is standard practice for the Standing Committee. These governments would then select individuals as contact points for the routine work of the Animals Committee or Plants Committee. The Service consulted the Secretariat and some other Party governments on the draft test of this proposed resolution prior to its submission, and incorporated their useful comments.

5. Illegal Trade Working Group

In response to the March 1, 1996, **Federal Register** notice, five organizations recommended that the United States submit a resolution on enforcement. Four organizations submitted comments in response to the August 28, 1996, **Federal Register** notice: One wildlife conservation organization asked the Service to reconsider introducing a resolution; three wildlife conservation organizations encouraged the Service to submit a discussion paper. One wildlife conservation organization, citing discussions held during the March 1995 Standing Committee meeting in Geneva, Switzerland, offered detailed recommendations on practical measures to improve enforcement. Although the Service had originally thought a new resolution unnecessary, based on extensive further discussions, the results of the CITES effectiveness study, and persistent concerns reflected in the most recent public comments, the United States submitted a resolution that would establish an Illegal Trade Working Group to: (1) Assist the Secretariat in providing advice and training on enforcement to Parties; (2) assist the Identification Manual Committee in the development of training materials for enforcement officers; and (3) facilitate international exchange of illegal wildlife trade information through formal links with ICPO-Interpol and the World Customs Organization. Representatives of the Working Group would attend meetings of the Animals, Plants, and Standing Committees to provide advice and technical assistance. At COP9, a law enforcement working group was discussed, but not adopted, for a number of reasons. The draft resolution submitted by the United States addresses those concerns by limiting Working Group membership to CITES Secretariat enforcement personnel and Party government representatives, and by spelling out specific terms of reference that clarify the Working Group's role.

6. Inspection of Wildlife Shipments

The inspection of wildlife shipments was not mentioned in earlier **Federal Register** notices as a prospective subject for a resolution because it did not arise as an issue until late in October 1996, when the World Conservation Congress (IUCN) adopted Resolution CGR1.90-rev1 at its First Session, in Montreal, Canada. As a result of this timing, the Service neither solicited nor received comment on this issue. The IUCN resolution calls upon all governmental members of IUCN ''to take whatever steps are necessary, including physical inspection of entering and departing wildlife shipments, to curtail the illegal trade of wildlife and wildlife products, and to dedicate the resources needed to accomplish these goals.'' The United States submitted a resolution virtually identical to that adopted by the IUCN, for consideration at COP10, which basically supports and implements the IUCN recommendation to increase the focus and attention on the need for inspection of wildlife shipments.

7. Trade with Parties that Have Not Identified a Scientific Authority

The Service was originally considering submitting a resolution that would recommend against allowing any wildlife trade with any Party that has not provided the name and address of its Scientific Authority to the Secretariat. Public comment from four wildlife conservation organizations supported this general approach, although one wildlife conservation organization thought Parties should accept imports from a country not having a Scientific Authority, as long as that country was able to demonstrate positive scientific evidence of non-detriment. One sport-hunting organization opposed it. The United States submitted a draft resolution: (1) Recommending that Parties not accept CITES export permits from countries that have not identified their Scientific Authorities to the Secretariat for more than one interval between biennial meetings of the Conference of the Parties; (2) encouraging countries to designate Scientific Authorities separate from Management Authorities; (3) directing the Secretariat to continue efforts to identify the Scientific Authority(s) in each country; and (4) recommending that neighboring Parties consider sharing their resources by supporting common scientific institutions to provide the scientific findings required under the Convention.

8. Regulation of CITES Shipments Traveling on a Customs Carnet

Many CITES Parties have acceded to the Customs Convention on the A.T.A. (Admission Temporaire-Temporary Admission) Carnet for the Temporary Admission of Goods, and to the Customs Convention on the International Transport of Goods Under Cover of TIR (Transport International Routier) Carnets. Both of these conventions created the ability to temporarily enter certain goods without being subject to the normal duty rates. Because of the temporary nature of these transactions, Customs globally views these imports as different from non-carnet imports. Infractions of the CITES Convention routinely include shipments of CITES species traveling on a Customs Carnet which have been allowed entry without meeting the applicable CITES requirements. As a result, many shipments of CITES species traveling on a Customs Carnet without CITES documentation have been refused entry into either the importing country or the country of origin upon return. To remedy this problem, the United States submitted a draft resolution recommending that all Parties ensure that their Management Authority issue appropriate documents for shipments traveling on a Customs Carnet, and strongly urging all Parties to communicate with their Customs and CITES enforcement officials to ensure all CITES shipments traveling on a Customs Carnet comply with applicable CITES requirements. Two wildlife conservation organizations commented in support of such a resolution.

9. Coral Reporting and Identification

Due to the method in which coral is transported and difficulties in species identification, coral reporting and identification for CITES purposes have been problematic. There is both a need for the Parties to agree on the use of standardized units for reporting coral trade information in the annual report and a concern that species identification of readily recognizable coral gravel or ''living rock'' cannot be accomplished at ports of entry. This issue was addressed by the CITES Animals Committee, which requested that the United States submit a draft resolution: (1) Amending the Guidelines for the Preparation and Submission of Annual Reports (CITES Notification No. 788); and (2) amending Resolutions Conf. 9.3, 9.4, and 9.6. The draft resolution would amend CITES Notification No. 788 to indicate that trade in specimens of coral transported in water should be reported in number of pieces, that trade in those coral specimens not transported in water should be reported in kilograms, and that trade in specimens of readily recognizable coral gravel or ''living rock'' should be reported at the Order level (Scleractinia). The draft resolution would also amend Resolutions Conf. 9.3, 9.4, and 9.6 to conform with the proposed amendments to Notification No. 788, and would stipulate that coral sand, its species being not readily recognizable, is not covered by the provisions of the Convention. Five wildlife conservation organizations submitted comment in support of the Service position. One pet industry association supported the proposed changes in coral trade reporting. One wildlife conservation organization urged the Service to continue discussing with the Secretariat the possibility of including in the CITES identification manual the U.S.-produced coral identification manual.

10. Transport of Live Animals

In adopting Resolution Conf. 9.23, the ninth meeting of the Conference of the Parties transferred to the Animals Committee issues pertaining to the transport of live specimens, and recommended that all live animals be shipped in accordance with the International Air Transport Association (IATA) Live Animals Regulations, and that all permits for live animals be conditioned upon compliance with those regulations. These recommendations were a consolidation of recommendations of earlier meetings of the Conference of the Parties. During the first comment period (beginning March 1, 1996), five organizations had recommended that the Service submit a draft resolution to amend Resolution Conf. 9.23, providing draft text. At their September 1996 meeting, the Animals Committee adopted a decision document and a draft resolution to amend Resolution Conf. 9.23, both prepared by the Working Group on the Transport of Live Specimens. During the second comment period (beginning August 28, 1996), four organizations generally supported the Animals Committee proposed resolution; however, two expressed concern over the elimination of language that would have enabled CITES to enact trade bans on species that continue to be transported in an inhumane way, and one of those organizations objected to the species-by-species approach, advocating that ''species'' be changed to ''taxa.'' As Chair of the Working Group and at the request of the Animals Committee, the United States submitted this revised draft resolution for consideration at COP10. The draft resolution directs the Animals Committee to conduct a systematic review of the scope, causes, and means of reducing the mortality and morbidity of animals during transport, and directs the Secretariat to convey recommendations for improvement to the Parties concerned and to monitor the implementation of those recommendations, reporting its findings at each meeting of the Conference of the Parties. The mortality information already required by Resolution Conf. 9.23 would be submitted as part of a Party's annual report; failure to submit these data would be noted in the Secretariat's Report to the Standing Committee on Parties' Annual Reports. The Animals Committee requested that the United States consult the Secretariat on its proposed text and then circulate the draft resolution to members of the Animals Committee before submitting it to the COP. Due to workload factors, the Secretariat was unable to forward its comments to the United States before the January 10 deadline. The Service accordingly proceeded to submit its proposed resolution, subject to modification before COP10, based on consultations with the Secretariat and members of the Animals Committee.

11. Bred-in Captivity (revision of Conf. 2.12)

The question of whether and how to revise the criteria for certifying specimens as bred-in-captivity for the exemptions provided for in Article VII, paragraphs 4 and 5 has been the subject to considerable extensive discussion and debate for the Parties, non-governmental organizations, commercial concerns, and technical experts. The ninth meeting of the Conference of the Parties adopted Decision No. 22, which directs the CITES Secretariat, in consultation with the Animals Committee, to prepare a draft resolution that will resolve problems regarding the exemptions under Article VII, paragraphs 4 and 5 for specimens bred in captivity, including: (1) Different interpretations by Parties of the term ''for commercial purposes'' when referring to the breeding of specimens of Appendix-I species in captivity, in particular regarding the sale of specimens that often results in income that, although perhaps not essential to the breeder's livelihood, may be significant, and (2) different interpretations by Parties of the criteria in Resolution Conf. 2.12 (Rev.) to determine whether a captive-breeding operation is ''managed in a manner which has been demonstrated to be capable of reliability producing second-

generation offspring in a controlled environment.''

Consultations were initiated at the 12th meeting of the Animals Committee, which established a working group on specimens bred in captivity, chaired by Canada, as well as a sub-group to discuss the definition of ''commercial purposes,'' chaired by Indonesia. The Secretariat then undertook the preparation of a resolution for consideration by the working group. In December 1995, the Secretariat's first draft resolution was sent to the chairman of the working group, who undertook wide consultations. The chairman of the working group provided the final results of his consultations to the Secretariat in July 1996. The United States and the chairman of the sub-group, among others, also provided comments to the Secretariat. The Secretariat's second draft, a consolidation of three already existing resolutions (or portions thereof), was provided for consideration at the 13th meeting of the Animals Committee, in September 1996, where the draft was discussed and revised.

The United States was not satisfied with the version that emerged from the Animals Committee meeting, for the following reasons. First, the Service believes that it may be reasonable to have a different standard for what constitutes bred in captivity for Appendix-I versus Appendix-II species, but that the criteria should minimally include those in Conf. 2.12(Rev.), and sustainable production of F2 offspring must be clearly demonstrated for Appendix-I species. Particularly disconcerting to the United States was omission of the criterion requiring that F2 offspring must be reliably produced (i.e., more than a single offspring). Second, the Secretariat's draft resolution would allow for the augmentation of breeding stock with nuisance animals, with no definition of the term ''nuisance.'' The United States is concerned that this would constitute a potential loophole for the laundering of wild-caught animals through a captive-breeding operation. The United States is also concerned that the Secretariat's draft resolution would allow for the continued augmentation of breeding stock from the wild rather than limiting augmentation to occasional additions of wild-caught specimens only for the purposes of preventing deleterious inbreeding, as specified in Conf. 2.12(Rev.).

The Service also did not support the establishment of a list of species, as suggested in the Secretariat's draft, which would include species whether or not they had reliably produced F2 offspring in captivity. The addition of species to the list, to be accomplished through a vote of the Conference of the Parties, would be based on proposals developed by the Animals Committee in consultation with appropriate experts. The Service believes that few animals—and no Appendix-I species—are likely to qualify, that this provision would allow specimens of such species to be designated as bred in captivity when they do not otherwise meet the criteria, and that this provision burdens the Animals Committee with additional responsibilities of questionable value.

While the Service appreciated the Secretariat's efforts to try to define ''commercial'' based on the number of specimens or the number of shipments exported by a given operation, we do not agree with this approach at this time due to the variability in breeding characteristics and value among specimens of different species. The Service also objected to provisions of the Secretariat's draft that would make stock legal after two generations, even if the parental stock was originally illegally acquired. Finally, the Service objected to the omission of some of the requirements for registration contained in Conf. 8.15, particularly descriptions of how stock is managed and strategies for avoiding deleterious inbreeding. The Service believes that this information is critical for determining whether an operation's stock managed sustainably and without reliance on continued augmentation from the wild at levels considered to be more than ''occasional'' (discussed below).

Rather than accepting the Animals Committee-passed draft, the United States elected instead to prepare a draft resolution that would revise Resolutions Conf. 2.12 and 8.15 simultaneously, while retaining them as separate and distinct documents. Based upon discussions in the Animals Committee, and taking into account extensive public comment received on this issue, the United States submitted a draft captive-breeding resolution that retains basic elements of Resolution Conf. 2.12 (Rev.), with the following enhancements: (1) It clarifies certain relevant terms previously left undefined; (2) it elaborates on the conditions necessary for a specimen to be considered ''bred in captivity,'' and (3) it provides an annex containing illustrative examples of specimens that do or do not qualify. Discussions continue between the CITES Secretariat and the United States regarding how best to address bred-in-captivity issues. Once the Secretariat has decided on its final draft resolution, should that resolution address U.S. concerns, the United States would consider withdrawing its own resolutions related to captive-bred wildlife.

The volume of public comment addressing captive-breeding issues far outstripped that for any other subject mentioned in the August 28, 1996, **Federal Register** notice. Thirteen organizations submitted comments on the captive-breeding agenda item and/or the two resolutions the Service was considering. A breakdown of the 13 organizations follows: Six wildlife conservation organizations, one industry group, three commercial animal exhibitors, a zoo association, one sport-hunting organization, and a bird hobbyist group. The Service appreciates the effort expended to produce these comments, which were typically carefully thought-out and lengthy. While it is not possible to summarize them here, some representative examples follow. The sport-hunting organization recommended the United States define aspects of captive breeding that foster a self-contained breeding population, and use those factors as the criteria for issuance of Appendix-II export permits (specimens of Appendix-I species bred in captivity for commercial purposes) or captive-bred certificates (for species from any appendix bred in captivity not for commercial purposes). One commercial animal exhibitor suggested creation of an interim list of ''special circumstance'' species that, while not yet capable of achieving F2 status as currently interpreted, are being managed in a way reliably demonstrated to achieve a viable second-generation population, and whose captive breeding has no detrimental effect on wild populations. One wildlife conservation organization urged the United States to advocate retention of Resolutions Conf. 2.12(Rev.) and 8.15, with minor revisions, and develop a new resolution that would incorporate the interpretation of Article VII, paragraphs 4 and 5 (exemption for captive-bred Appendix-I specimens) as set out in Notification 913. Another wildlife conservation organization urged the United States to oppose efforts to weaken resolutions on trade in captive-bred specimens, and to introduce a resolution similar to the one the U.S. submitted to the Animals Committee. Readers desiring more detail are encouraged to consult the individual submissions, available from the Office of Management Authority upon request.

12. Appendix-I Species Bred in Captivity for Commercial Purposes (revision of Conf. 8.15)

Recent discussions by the Parties of captive-breeding issues also

encompassed the subject matter covered in Resolution Conf. 8.15, with the result that the public comment received on proposed revisions to Resolutions Conf. 2.12 and 8.15 tended to be intertwined. For an account of the development of the U.S. captive-breeding resolutions and a general characterization of organizations that submitted comments, please consult the preceding item (#11). To address Appendix-I Species Bred in Captivity for Commercial Purposes, the United States submitted a draft resolution which revises Conf. 8.15 in the following ways. Parts of the original preamble and resolution that encouraged the captive breeding and commercial exploitation of Appendix-I species, particularly in range States, were deleted, since the Service does not believe that such activities are always appropriate and should be discouraged in some cases. Instead, Annex 3 of the draft resolution recommends that the Secretariat encourage the establishment of captive-breeding operations for Appendix-I species where appropriate. The draft resolution would require notification of all Parties in cases where the Party in which the operation is located has not previously registered a captive-breeding operation for the species involved, even if other Parties have registered breeding operations for that species. In Conf. 8.15, for a given species, only the first operation registered with the Secretariat for any Party requires notification of the Parties. The U.S. opinion is that the potential for using captive-breeding operations for laundering wild-caught specimens as well as the methodology for breeding a species in captivity can vary from country to country due to differences in enforcement capability, climate, and availability of technology, and therefore Parties should be evaluated individually on their ability to control trade in captive-bred specimens and of their operations' capabilities to actually breed the species under consideration. Parts of the original resolution requiring findings that the operation must have been established without detriment to the survival of the species were deleted, since this is already required by Resolution Conf. 2.12, which provides the basis for Conf. 8.15. Otherwise, the resolution has not been substantially modified from Conf. 8.15, since it is the United States' opinion that the existing resolution is workable, has been in place for only a short while and thus has not been widely used, and thus does not require extensive modification. However, a significant change suggested by the U.S. draft resolution would be to provide for a Party that has concerns about aspects of an application to register a captive-breeding operation to discuss those concerns with the Party in which the operation is located, and perhaps seek a resolution to the concerns so an objection to the registration and a full vote by the Conference of the Parties can be avoided. A representative sample of the public comment regarding proposed revisions to Resolution Conf. 8.15 follows. One wildlife conservation organization recommended expanding the definition of ''commercial purposes,'' generating a list of problem species with long generational intervals (in the F2 context) requiring CITES interpretation and assistance, and making the purpose for which the animal is being exported the determining factor for deciding ''commercial purposes,'' rather than the nature of the breeding facility. The three commercial animal exhibitors expressed concerns that the Secretariat-drafted resolution then under consideration in the Animals Committee would result in further restriction on acquisition of new breeding stock, and cited conflicts with the interpretations of ''commercial purposes'' found in Resolution Conf. 5.10 and Article VII, paragraph 4, and with domestic law. The sport-hunting organization felt the United States should seek to streamline the system for registering facilities breeding Appendix-I species for commercial purposes or should advocate doing away with it because ''it is not serving its purpose.'' Another wildlife conservation organization wanted to maintain high standards for the production of Appendix-I specimens, and believes the Secretariat should bear major responsibility for registration of Appendix-I species breeding facilities.

13. Establishment of a Working Group for Marine Fish Species

The decision to propose establishing a Working Group for Marine Fish Species was made late in the process, arising out of extensive discussions between the Service and the U.S. Department of Commerce, National Marine Fisheries Service (NMFS), the U.S. agency with jurisdiction over marine fish species. These interagency discussions have concerned the implementation of Resolution Conf. 9.17—which calls for the Animals Committee to report to the tenth meeting of the Conference of the Parties on the biological and trade status of sharks—an effort which has involved the active participation of the United States, many other CITES Parties, the United Nations Food and Agriculture Organization (FAO) and other international fisheries organizations. A discussion paper has been submitted for consideration at COP10. This implements the first part of Resolution Conf. 9.17. The second part requests that FAO and other international fisheries management organizations establish programs to collect and assemble additional biological and trade data on shark species, and that such information be submitted to the eleventh meeting of the Conference of the Parties. This remains to be accomplished. Further, many questions have been raised regarding technical and practical implementation concerns associated with inclusion on the CITES Appendices of marine fish species subject to large-scale commercial harvesting and international trade. A Marine Fish Species Working Group would provide a framework for this and other activities to implement Resolution Conf. 9.17. Therefore, after extensive review of the available information on the biological and trade status of shark species, both as part of the Animals Committee process implementing Resolution Conf. 9.17 and in evaluating the conservation status of numerous commercially harvested shark species, the United States concluded that: (1) Several internationally traded shark species qualify for inclusion in Appendix II of CITES; (2) many serious implementation and enforcement challenges would result from the inclusion in Appendix II of these and other commercially traded marine fish species, although they qualify for such inclusion; (3) the Parties and conservation of marine fish species would benefit from a thorough evaluation of all aspects of implementation of the Convention for marine fish species, including a clarification of the relationship of CITES with other conventions relating to marine fish species; and (4) the successful Timber Species Working Group is a useful model for evaluating implementation issues pertaining to marine fish species. The draft resolution submitted by the United States directs the Standing Committee to: (1) Establish a temporary working group for marine fish species subject to large-scale commercial harvesting and international trade, which would coordinate preparation of an analysis of technical and practical implementation concerns associated with the inclusion of such species on the CITES Appendices; (2) develop recommendations on approaches to address identified issues; (3) begin to coordinate and advise regional fishery treaty organizations on necessary marine fish species data

collection and consistency in reporting; and (4) report back to the eleventh meeting of the Conference of the Parties. The United States believes that such a working group should focus on technical and practical implementation issues, rather than on whether or not individual taxa of marine fish qualify for inclusion in Appendix II. However, the United States does believe that there are commercially harvested marine fish species traded internationally that qualify for inclusion in CITES Appendix II, and that in such cases CITES is an appropriate vehicle to regulate and monitor trade in those species, to preclude their becoming threatened with extinction in the future. The United States looks forward to discussion of this draft resolution at COP10, to its adoption, and to the work of the Working Group between COP10 and COP11.

Documents Submitted By The United States

14. Trade in Alien (Invasive) Species

The United States submitted a document for discussion at COP10, dealing with the important conservation issue of the international trade in invasive alien species. The document discusses the background on this conservation issue, and the role that the CITES Parties can play. The document defines an alien [nonindigenous] species as a species, subspecies, or lower taxon, occurring as a result of human activity in an areas or ecosystem in which it is not native. Alien species that colonize natural or semi-natural ecosystems, cause change, and threaten biodiversity are categorized as ''invasive.'' They have been identified in the scientific literature as the second-largest threat to biological diversity globally after habitat loss and degradation. International conservation bodies have recently addressed the issue of alien species and the problems associated with them. The document submitted by the United States discusses recent progress on this issue at: (1) The July 1996 Conference on Alien Species in Norway, sponsored by the United Nations Environment Programme, the Secretariat for the Convention on Biological Diversity (CBD), UNESCO, and the Scientific Committee on Problems of the Environment of the International Council of Scientific Unions; (2) the World Conservation Congress in October 1996; (3) the IUCN/SSC Invasive Species Specialist Group; and (4) the Third Conference of the Parties of the CBD in November 1996, held in Buenos Aires, Argentina.

The document submitted by the United States recommends discussion of these issues at COP10 and that Parties: (1) Recognize that nonindigenous species can pose significant threats to biodiversity, that living specimens of flora and fauna species in commercial trade are likely to be introduced to new habitat as a result of international trade, and that awareness of these problems is needed in the business and public sectors; (2) recognize that CITES can play a significant positive role in this issue; (3) pay particular attention to these issues when developing national legislation and regulations, when issuing export or import permits for live animals or plants of potentially invasive species, or when otherwise approving exports or imports of live specimens of potentially invasive species; (4) encourage management Authorities of exporting countries to consult with the Management Authority of a planned importing country, if possible and applicable, when considering exports of potentially invasive species, to determine whether the importing country has established domestic measures regulating imports, or whether the importing country has concerns regarding importation of the species in question; (5) consider the threats of introduction of alien species and the risks to native biodiversity in the context of implementation of CITES and other Conventions, including CBD; and (6) consider requesting that the Animals and Plants Committee establish a formal liaison with the IUCN/SSC Invasive Species Specialist Group to review species in international trade, collaborate in the development of a global database of invasive species, identify species that may pose problems if they are introduced, and cooperate on this issue to recommend means to ensure that unintentional introductions do not occur.

15. Illegal Trade in Whale Meat

Despite the adoption of Resolution Conf. 9.12, which calls for further cooperation and information exchange by CITES and the International Whaling Convention (IWC), illegal trade in specimens of Appendix-I whale species remains a significant problem for some CITES Parties. While the United States originally considered submitting another resolution urging continued cooperation between CITES and the IWC for consideration at COP10, after further deliberation the United States decided to submit a document recounting the recent history of efforts to control illegal trade in whale specimens and products and asking that the issue be included on the agenda for COP10. Although five organizations submitted public comment in favor of a U.S. resolution, and one wildlife conservation organization urged the Service to ensure that smuggling incidents are fully investigated by Japanese and Norwegian authorities and the information forwarded to the CITES Secretariat, it was felt that submitting a document for the Parties' consideration presented a more effective strategy leading to a more open discussion of the problem. The United States looks forward to a useful discussion of problems of illegal trade in whale meat, and implementation of previous resolutions of the Conference of the Parties, to be considered in the evaluation of both this issue and of any possible proposals to transfer any whale populations to Appendix II.

16. Flora, Fauna, and the Traditional Medicine Community: Working with People to Conserve Wildlife

Pursuant to the COP10 agenda item dealing with the use of wildlife in traditional medicines, the United States submitted this document, which follows up on two separate reports to the Standing Committee on U.S. efforts in support of CITES Resolutions Conf. 9.13 and 9.14. Those resolutions charge consumer states to work with traditional medicine communities and industries to develop strategies for elimination of tiger and rhino use and consumption. The document describes national and international activities undertaken by the United States in the areas of law enforcement, legislation, and education, highlighting cooperative efforts to educate the U.S. traditional medicine community in conservation strategies, and the development of cooperative ties with the Ministry of Forestry in the People's Republic of China. A detailed discussion of accomplishments offers insight into the outreach education process. The document ends with three recommendations that could be useful to consumer states. The United States strongly supports such cooperative educational efforts, working with consumer communities to increase understanding of the impacts of the wildlife trade and wildlife conservation, and facilitating the use of substitutes and alternatives to endangered species products, while respecting the value of traditional medicines and the cultures and communities that use them.

Resolutions Not Submitted By The United States

The following were discussed in the August 28, 1996 **Federal Register** notice as possible topics for U.S. resolutions. A

discussion of the decision to not submit these resolutions follows:

Trade in Appendix-I Specimens

In the August 28, 1996, **Federal Register** notice, the Service indicated that it was considering submitting a draft resolution clarifying the treatment of Appendix-I specimens. Specifically, the United States considered the issue of when Article III should be used for export or import permits for Appendix-I specimens, and when the Article VII (paragraphs 4 and 5) exemptions for specimens bred in captivity for commercial and non-commercial purposes, respectively, should be used. Subsequently, the Secretariat circulated an official Notification (number 913) on this issue. Five organizations—ranging from a commercial animal exhibitor to a wildlife conservation organization—submitted comments, all in favor of the United States submitting a resolution and/or in opposition to the draft resolution presented at the Animals Committee meeting. However, based on discussions with the Secretariat and other Parties, discussions at the September 1996 meeting of the Animals Committee, and an evaluation of comments received, the United States decided not to submit a draft resolution on this issue. Instead, the United States believes that its views on clarifying the use of Articles III and VII have been sufficiently expressed, and that continued dialogue on a case-by-case basis will be more productive. Furthermore, one source of confusion by other countries has been the fact that the United States itself has never registered a commercial facility (under Resolution Conf. 8.15) that breeds Appendix-I specimens in captivity for commercial purposes. The Service notes that few qualified facilities have applied, but the Service is more than eager to register qualified facilities; to that end, a future notice in the **Federal Register** is being drafter to explain the process and encourage submission of applications for registration.

Personal Effects/Live Animals

In the August 28, 1996, **Federal Register** notice, the Service indicated that it was considering submitting a draft resolution clarifying aspects of the personal effects exemption in Article VII of the CITES treaty. Travelers experience some problems because the United States recognizes the personal effects exemption under Article VII, paragraph 3 of the treaty, whereas other countries either do not recognize it or implement it differently. This also causes problems for implementation of CITES at ports of entry. The four organizations submitting comment in response to the August 28, 1996 **Federal Register** notice either supported a U.S. resolution and/or made specific recommendations concerning content. One wildlife conservation organization recommended that the U.S. draft clarify whether live animals are included in the personal effects exemption under Article IV; another noted that not every country interprets properly Article VII paragraph 3(a), which pertains to specimens acquired outside a person's State of usual residence. The United States decided not to submit a resolution, for the following reasons: (1) The Animals Committee agreed to submit a resolution dealing with frequent transborder movement of personally owned live animals; (2) the United States agrees with the text of this proposed resolution, and views it as dealing effectively with a major aspect of the broader personal effects issues, for live animals; (3) the United States submitted a resolution dealing with one aspect of this issue, specifically the sale of Appendix-I tourist items at international airports, seaports, and border crossings (discussed earlier in this notice); and 94) the United States will ask the Parties to direct the Secretariat to survey the Parties and prepare a document clarifying how each country implements the personal effects exemption; such a request does not require a resolution.

Circuses

In the August 28, 1996, **Federal Register** notice, the Service indicated that it was considering submitting a discussion paper or draft resolution to address several technical issues in Resolution Conf. 8.16 (Traveling Live Animal Exhibitions), such as the requirement of a separate certificate for each specimen. Six organizations—two commercial animal exhibitors and four wildlife conservation organization—submitted comments on circuses. One foreign commercial animal exhibitor, communicating through counsel, endorsed the ''passport'' approach considered by the Animals Committee in the context of frequent movement of personally owned live animals. One wildlife conservation organization said Conf. 8.16 should continue to require separate certificates—which should be valid for one year, not three—and felt specimens that do not qualify as captive-bred under Resolution Conf. 2.12 should not be eligible for coverage by a captive-bred certificate. One wildlife conservation organization cautioned against raising the issue at COP10, given the highly controversial nature of any proposal concerning elephants in a meeting held in Zimbabwe, and recommended instead that the United States work out this problem within the North American region. At its September 1996 meeting, the Animals Committee decided that ''frequent transborder movement of personally owned live animals'' should not apply to circuses. Based on the comments received, discussions with other countries, and the outcome of the Animals Committee meeting, the United States decided to submit nothing to COP10, but rather to take up the technical issues directly with the Secretariat and with the individual countries involved.

Crocodile Tagging

In the August 28, 1996, **Federal Register** notice, the Service indicated that it was considering submitting a draft resolution to clarify some points in Resolution Conf. 9.22 (Universal Tagging System for the Identification of Crocodilian Skins) by providing a description of the parts tag and a method for the marking of product containers. During the public comment period, one wildlife conservation organization voiced its support of a U.S. resolution, noting that any marking system must be standardized and that specifications for the design of the tag must be fundamental and generally applied. No further comments were received. At their meeting in September 1996, the Animals Committee agreed upon the text of a Notification to the Parties, resolving these points and obviating the need for a draft resolution.

Observers

Article XI, paragraph 7 of the Convention states:

Any body or agency technically qualified in protection, conservation, or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the parties present object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) National nongovernmental agencies or bodies which have been approved for these purposes by the State in which they were located.

Once admitted, these observers shall have the right to participate but not to vote.

Persons wishing to be observers representing U.S. national non-governmental organizations must receive prior approval of the Service.

International organizations (which must have offices in more than one country) may request approval directly from the Secretariat. After granting of that approval, a national non-governmental organization is eligible to register with the CITES Secretariat and must register with the Secretariat prior to the COP in order to participate in the COP as an observer. All registrations must be received by the Secretariat no later than 30 days prior to the meeting of the COP, and preferably much sooner. Individuals that are not affiliated with an approved organization may not register as observers. Requests for such approval should include evidence of technical qualification in protection, conservation, or management of wild fauna and/or flora, on the part of both the organization and the individual representative(s). Organizations previously approved by the Service (for prior meetings of the COP) must submit a request but do not need to provide as detailed information concerning their qualifications as those seeking approval for the first time. Organizations seeking approval for the first time should detail their experience in the protection, conservation, or management of wild fauna and/or flora, as well as their purposes for wishing to participate in the COP as an observer. Such requests should be sent to the Office of Management Authority (OMA: see **ADDRESSES**, above) or submitted to OMA electronically via E-mail to: R9OMA__CITES@MAIL.FWS.GOV, prior to the close of business on April 1, 1997. That deadline will assure approval in time to submit registration materials to the Secretariat in time. Organizations are encouraged to submit requests for approval as soon as possible, however. Upon approval by OMA, an organization will receive instructions for registration with the CITES Secretariat in Switzerland, including relevant travel and hotel information. Any organization requesting approval for observer status at COP10 will be added to the Service's CITES Mailing List if it is not already included, and will receive copies of all future **Federal Register** notices and other information pertaining to COP10. A list of organizations approved for observer status at COP10 will be available from OMA just prior to the start of COP10.

Future Actions

COP10 is scheduled for June 9–20, 1997, in Harare, Zimbabwe. Through a series of additional notices in advance of COP10, the Service will inform the public about preliminary and final negotiating positions on resolutions and amendments to the Appendices proposed by other Parties for consideration at COP10. The Service will also publish an announcement of a public meeting to be held in April 1997 to receive public input on its proposed negotiating positions for COP10.

AUTHORS: This notice was prepared by Dr. Susan S. Lieberman, Chief, Operations Branch, Office of Management Authority, U.S. Fish and Wildlife Service (703–358–2095).

Dated: March 19, 1997.

John G. Rogers,

Acting Director.

[FR Doc. 97–7725 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AK–962–1410–00–P]

Alaska; Notice for Publication, AA–6703–A2; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to The Tatitlek Corporation for approximately 1,850 acres. The lands involved are in the vicinity of Tatitlek, Alaska.

Copper River Meridian, Alaska

T. 13 S., R. 7 W.,
Secs. 25 and 27;
Secs. 34, 35 and 36.
T. 14 S., R. 7 W.,
Secs. 2 and 3.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 28, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia K. Underwood,

Land Law Examiner, ANCSA Team Branch of 962 Adjudication.

[FR Doc. 97–7771 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–JA–P

[CA–060–07–1990–00]

Notice of Extension of Public Comment Period for the Proposed Fort Irwin Expansion

AGENCY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the Bureau of Land Management (BLM), U.S. Department of the Interior, is extending the public comment period on the draft environmental impact statement (DEIS) for the Army's proposed expansion of the National Training Center (NTC) at Fort Irwin to June 3, 1997.

The DEIS analyzes the environmental impacts of the proposed expansion of the NTC, which includes the withdrawal and transfer of approximately 310,296 acres of public land managed by the BLM to the U.S. Army, and an amendment to the California Desert Conservation Area Plan. The NTC is located approximately 35 miles northeast of Barstow in north-central San Bernardino County. The DEIS was released for public comment on January 3, 1997 (61 FR 68289, December 27, 1996).

BLM has not identified an agency preferred alternative in the DEIS. Following analysis of the comments received from all the public, agencies, and organizations on the DEIS, BLM will select a preferred alternative in the Final EIS.

Copies of the DEIS, executive summary, and technical appendices are available for review at most libraries, and BLM's Barstow Resource Area Office, 150 Coolwater Lane, Barstow, California 92311, California Desert District Office, 6221 Box Springs Boulevard, Riverside, California 92507, and California State Office, 2135 Butano Drive, Sacramento, California 95825.

DATES: Comments on the Draft Environmental Impact Statement for the Army's proposed expansion of the NTC must be postmarked no later than Tuesday, June 3, 1997.

ADDRESSES: Written comments should be addressed to the Bureau of Land Management, Barstow Resource Area Office, Attention: Mike Dekeyrel, Project Manager, 150 Coolwater Lane, Barstow, California 92311.

FOR FURTHER INFORMATION CONTACT: Mike Dekeyrel at (619) 255–8730.

Dated: March 18, 1997.

Jo Simpson,

Assistant District Manager, External Affairs.

[FR Doc. 97–7534 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–40–M

[CO–934–97–5700–00; COC56821]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC56821, Huerfano County, Colorado, was timely fined and was accompanied by all required rentals and royalties accruing from September 1, 1996, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms or rental and royalties at rates of $10 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1996, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Patti Gillard of the Colorado State Office (303) 239–3777.

Dated: March 18, 1997.

Patti Gillard,

Land Law Examiner, Oil and Gas Management Team.

[FR Doc. 97–7801 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–JB–M

[MT–923–07–1020–04–WEED]

Notice of Proposed Supplementary Rules To Require the Use of Certified Noxious Weed Seed Free Forage or Pelletized Feed on U.S. Forest Service and Bureau of Land Management-administered Lands in Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Montana State Director of the Bureau of Land Management (BLM) is proposing a requirement that BLM visitors in Montana use certified noxious weed seed free hay, grain, straw, mulch, cubes and pelletized feed when visiting BLM-administered lands in Montana. This requirement will affect visitors who use hay, grain, cubes, straw or pelletized feed on the BLM-administered lands in Montana such as: recreationists using pack and saddle stock, ranchers with grazing permits, outfitters, and contractors who use straw or other mulch for reseeding or erosion control purposes. These individuals or groups would be required to purchase certified noxious weed seed free forage products, for use while on BLM-administered lands in Montana.

DATES: The comment period ends on April 28, 1997.

ADDRESSES: Send written comments to: Director (923), USDI Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800.

FOR FURTHER INFORMATION CONTACT:

Noxious weeds are a serious problem in the western United States. Species like leafy spurge, spotted knapweed, Russian knapweed, musk thistle, Dalmatian toadflax, purple loosestrife, and many others are alien to the United States and have no natural enemies to keep their populations in balance. Consequently, these undesirable weeds invade healthy ecosystems, displace native vegetation, reduce species diversity, and destroy wildlife habitat. Widespread infestations lead to soil erosion and stream sedimentation. Furthermore, noxious weed invasions weaken reforestation efforts, reduce forage for domestic and wild ungulates occasionally irritate public land users by aggravating allergies and other ailments, and threaten federally protected plants and animals.

To curb the spread of noxious weeds, a growing number of western states have jointly developed noxious weed-free forage certification standards and, in cooperation with various federal, state, and county agencies, passed weed management laws. Because hay and other forage products containing noxious weed seed are part of the infestation problem, Montana has developed a state forage inspection-certification-identification process; participates in a regional inspection-certification-identification process; and encourages forage producers to grow noxious weed seed free products.

In cooperation with the State of Montana, and the Forest Service as published elsewhere in this issue of the **Federal Register**, the BLM is proposing—for all BLM-administered lands within Montana—a ban on hay, straw, mulch, cubes or pellets that have not been certified. This proposal includes a public information plan to ensure that: (1) this ban (a.d.a. closure order) is well publicized and understood; and (2) BLM visitors will know where they can purchase state-certified hay or other products.

These supplementary rules will not appear in the Code of Federal Regulations.

The principal author of these proposed supplementary rules is Hank McNeel, Weed Management Specialist, BLM Montana State Office.

For the reasons stated above, under the authority of 43 CFR 8365.1–6, the BLM Montana State Office, proposes supplementary rules to read as follows: Supplementary Rules to Require the Use of Certified Noxious Weed Seed Free Forage on BLM-Administered Lands in Montana:

(a)(1) To prevent the spread of weeds on BLM-administered lands in Montana, effective May 20, 1997, all BLM lands within the State of Montana, at all times of the year, shall be closed to possessing or storing hay, straw, or mulch that has not been certified as free of noxious weed seed.

(2) Certification must be by an authorized State Department of Agriculture official or designated county official.

(3) The following persons are exempt from this order: anyone with a permit signed by BLM's authorized officer at the BLM Resource Area Office specifically authorizing the prohibited act or omission within that area.

(b) Any person who knowingly and willfully violates the provisions of these supplemental rules regarding the use of noncertified noxious weed seed free hay, straw, mulch, cubes or pellets when visiting BLM-administered lands in Montana without authorization required, may be commanded to appear before a designated United States magistrate and may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both, as defined in 43 U.S.C. 1733(a).

Dated: March 14, 1997.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 97–7753 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–DN–M

Minerals Management Service

Outer Continental Shelf (OCS) Policy Committee of the Minerals Management Advisory Board; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

SUMMARY: The OCS Policy Committee of the Minerals Management Advisory Board will meet at the Westfields Conference Center in Chantilly, Virginia on April 30–May 1, 1997.

The agenda will cover the following principal subjects:

—Report from the Subcommittee on Environmental Information for Select OCS Areas Under Moratoria

—Report from the Hard Minerals Subcommittee

—Gulf of Mexico Update: A Broad Brush Look at Current Activities

—Sharing of Benefits with the States

—Update on the Reauthorization of the Magnuson Fishery Conservation and Management Act

—Alaska Update

—New Offshore Development Projects in Eastern Canada

—Law of the Sea Update

—DOE Update on the U.S. Energy Policy Given Current Supply/Demand Picture and Other Policy Issues

—Emerging Issues

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the OCS Policy Committee. Such requests should be made no later than April 18, 1997, to the Minerals Management Service, 381 Elden Street, MS–4001, Herndon, Virginia 20170, Attention: Jeryne Bryant.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, call Jeryne Bryant at (703) 787–1211.

Minutes of the OCS Policy Committee meeting will be available for public inspection and copying at the Minerals Management Service in Herndon, Virginia.

DATES: Wednesday, April 30 and Thursday, May 1, 1997.

ADDRESSES: The Westfields Conference Center, 14750 Conference Center Drive, Chantilly, Virginia 20121—(703) 818–0300.

FOR FURTHER INFORMATION CONTACT: Jeryne Bryant at the address and phone number listed above.

Authority: Federal Advisory Committee Act, P.L. No. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: March 21, 1997.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 97–7781 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–MR–M

Notice on Outer Continental Shelf Gas and Oil Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from May 1, 1997, through October 31, 1997. The List of Restricted Joint Bidders published October 17, 1996, in the **Federal Register** at 61 FR 54213 covered the period of November 1, 1996, through April 30, 1997.

Group I. Exxon Corporation; Exxon San Joaquin Production Co.

Group II. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; CalResources LLC; Shell Deepwater Development Inc.; Shell Deepwater Production Inc.; Shell Offshore Properties and Capital Inc.

Group III. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group IV. BP America Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: March 21, 1997.

Robert E. Brown,

Acting Director, Minerals Management Service.

[FR Doc. 97–7755 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

AGENCY: National Park Service.

ACTION: Extension of comment period, publication of certain concession policies and procedures.

SUMMARY: The National Park Service gave notice in the **Federal Register** of February 20, 1997 (Vol. 62, No. 34, Page 7798), that it was publishing for comment those portions of its staff manual (NPS–48) which had not been published for comment previously. Comments in response to that notice were due on March 24, 1997. NPS is hereby extending the public comment period for an additional 15 days through April 8, 1997.

COMMENT DUE DATE: April 8, 1997.

ADDRESSES: Comments should be addressed to Robert Yearout, Program Manager, Concession Program, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127.

FOR FURTHER INFORMATION CONTACT: Copies of those sections of NPS–48 which have not been published for comment previously may be obtained by contacting Wendelin Mann, Concession Program, National Park Service (202) 565–1219.

Dated: March 20, 1997.

Robert K. Yearout,

Concession Program Manager.

[FR Doc. 97–7800 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–M

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Denali National Park and the Chairperson of the Subsistence Resource Commission for Denali National Park announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order by Chair.

(2) Roll call and confirmation of quorum.

(3) Superintendent's welcome and introductions.

(4) Approval of minutes of last meeting.

(5) Additions and corrections to agenda.

(6) Old business:

a. Wildlife studies.

b. NPS Subsistence Issue Paper report.

c. Park planning and North Access updates.

(7) New business:

a. Federal subsistence proposals.

b. Regional Advisory Councils' actions.

c. Draft Resources Management Plan.

(8) Public and other agency comments.

(9) Set time and place of next SRC meeting.

(10) Adjournment.

DATES: The meeting will be held Friday, March 28, 1997. The meeting will begin at 9 a.m. and conclude around 6 p.m.

LOCATION: The meeting will be held at the North Star Inn's Conference Room in Healy, Alaska.

FOR FURTHER INFORMATION CONTACT: Steve Martin, Superintendent, Denali National Park and Preserve, PO Box 9, Denali Park, Alaska 99755. Phone (907) 683–2294.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are

authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Regional Director.

[FR Doc. 97–7799 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–M

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Colorado in the Possession of the Anasazi Heritage Center, Bureau of Land Management, Dolores, CO

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Colorado in the possession of the Anasazi Heritage Center, Bureau of Land Management, Dolores, CO.

A detailed assessment of the human remains was made by Bureau of Land Management professional staff in consultation with representatives of the Northern Ute Tribe of Colorado, the Southern Ute Tribe, and the Ute Mountain Ute Tribe of Colorado.

In 1981, human remains representing one individual were recovered from Site 5MT5380, Montezuma County during legally authorized excavations. No known individual was identified. The 2,249 associated funerary objects include glass beads, metal objects, leather objects, and a fabric fragment.

In 1981, human remains representing one individual were recovered from Site 5MT5399, Montezuma County during legally authorized excavations. No known individual was identified. The 756 associated funerary objects include glass beads, wood and metal pieces, and bone pendants.

These individuals have been identified as Native American based on dental characteristics. Sites 5MT5380 and 5MT5399 have been identified as burial sites from the mid- to late nineteenth century based on associated funerary objects and crevice burial. Archeological and ethnohistoric evidence indicates these are Ute burials based on manner of internment, location of the burials, and associated funerary objects. Consultation evidence provided by representatives of the Northern Ute Tribe of Colorado, the Southern Ute Tribe, and the Ute Mountain Ute Tribe indicates these are Ute burials based on historic band locations, traditional burial practices, and bead manufacture.

Based on the above mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Bureau of Land Management have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 3,005 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Ute Mountain Ute Tribe of Colorado.

This notice has been sent to officials of the Northern Ute Tribe of Colorado, the Southern Ute Tribe, and the Ute Mountain Ute Tribe of Colorado. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact LouAnn Jacobson, Director, Anasazi Heritage Center, 27501 Highway 184, Dolores, CO 81323; telephone: (970) 882–4811, before April 28, 1997. Repatriation of the human remains and associated funerary objects to the Ute Mountain Ute Tribe of Colorado may begin after that date if no additional claimants come forward.

Dated: March 19, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7796 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains, Associated Funerary Objects, and an Unassociated Funerary Object From Washington State in the Possession of the Burke Museum, University of Washington, Seattle, WA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Washington State in the possession of the Burke Museum, University of Washington, Seattle, WA.

A detailed assessment of the human remains was made by Burke Museum professional staff in consultation with representatives of the Jamestown Band of S'Klallam Indians, the Lower Elwha Klallam Tribal Community, and the Port Gamble S'Klallam Tribe.

In 1923, human remains representing one individual were removed from a grave site on the Hartley Goodwin property during excavations conducted by Professor C.J. Albrecht of the University of Washington and donated to the Burke Museum. No known individuals were identified. The 33 associated funerary objects include two shell ornaments, a copper bracelet, a leather pouch, fourteen brass buttons, and fifteen brass thimbles.

In 1923, 1,426 cultural items consisting of glass beads were removed from a grave site on the Hartley Goodwin property in Clallam County, WA, during excavations conducted by Professor C.J. Albrecht of the University of Washington and donated to the Burke Museum. The human remains from this grave are not in the possession of the Burke Museum.

Ethnographic and historic evidence indicates the Hartley Goodwin property in Clallam County, WA, is located within traditional S'Klallam territory based on archeological evidence of long term occupation and continuity of cultural materials, detailed historical records, oral history, and map data provided by tribal representatives during consultation.

In 1926, human remains representing one individual were recovered from Dungeness, Clallam County, WA, during a University of Washington expedition by A.G. Colley and donated to the Burke Museum. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing one individual were recovered at Sequim Bay near Dungeness, Clallam County, WA by R.L. Watson. In 1916, Mr. Watson donated these human remains to the Burke Museum. No known individuals were identified. No associated funerary objects are present.

Ethnographic and historic evidence indicates Dungeness, Clallam County, is located within traditional S'Klallam territory based on archeological evidence of long term occupation and continuity of cultural materials, detailed historical records, oral history, and map data provided by tribal representatives during consultation.

In 1942, human remains representing one individual were recovered from Scow Bay, Marrowstone Island, Jefferson County, WA, by L. Burns Lindsey. In 1976, these human remains were transferred to the Burke Museum by the Museum of History and Industry, WA. No known individuals were identified. No associated funerary objects are present.

Based on anthropological and historical records, Marrowstone Island has been identified as the traditional territory of the Chemakum. By the 1850s, the Chemakum were living with the S'Klallam, and were associated with the S'Klallam in the records of the period.

Based on the above mentioned information, officials of the Burke Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of four individuals of Native American ancestry. Officials of the Burke Museum have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 33 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Officials of the Burke Museum have further determined that, pursuant to 25 U.S.C. 3001 (3)(B), these 1,426 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Lastly, officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains, associated funerary objects, the unassociated funerary object and the Jamestown Band of S'Klallam Indians, Lower Elwha Tribal Community, and Port Gamble S'Klallam Tribe.

This notice has been sent to officials of the Jamestown Band of S'Klallam Indians, Lower Elwha Tribal Community, and Port Gamble S'Klallam Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. James Nason, Chair of the Repatriation Committee, Burke Museum, box 353010, University of Washington, Seattle, WA 98195; telephone: (206) 543–9680, before April 28, 1997. Repatriation of the human remains, associated funerary objects, and the unassociated funerary object to the Jamestown Band of S'Klallam Indians may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: March 19, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7797 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains in the Possession of the Heard Museum, Phoenix, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains in the possession of the Heard Museum, Phoenix, AZ.

A detailed assessment of the human remains was made by Heard Museum professional staff in consultation with representatives of the Cheyenne-Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Devil's Lake Sioux Tribe, the Rosebud Sioux Tribe, the Standing Rock Sioux Tribe, and the Three Affiliated Tribes of North Dakota.

In 1991, human remains representing two individuals were discovered during inventory of the Heard Museum's collections. No known individuals were identified. No associated funerary objects are present. One individual has a note stating the human remains came from the Midwest.

During 1994 –1996, consultation with tribal representatives and traditional religious leaders was conducted for these two individuals. During these consultations, a traditional religious leader determined through ceremony that these remains were Cheyenne.

Based on the above mentioned information, officials of the Heard Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Heard Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Cheyenne-Arapaho Tribes of Oklahoma.

This notice has been sent to officials of the Cheyenne-Arapaho Tribes of Oklahoma, the Cheyenne River Sioux Tribe, the Devil's Lake Sioux Tribe, the Northern Cheyenne Tribe, the Rosebud Sioux Tribe, the Standing Rock Sioux Tribe, and the Three Affiliated Tribes of North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Martin Sullivan, Director, Heard Museum, 22 E. Monte Vista Rd., Phoenix, AZ 85004–1480; telephone: (602) 252–8840, before April 28, 1997. Repatriation of the human remains to the Cheyenne-Arapaho Tribe of Oklahoma may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: March 19, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7795 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From the Great Neck Site, Virginia Beach, VA, in the Possession of the Virginia Department of Historic Resources, Richmond, VA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from the Great Neck Site, Virginia Beach, VA, in the possession of the Virginia Department of Historic Resources, Richmond, VA.

A detailed assessment of the human remains was made by Virginia Department of Historic Resources professional staff in consultation with representatives of Chickahominy, Eastern Chickahominy, Mattaponi, Monacan, Nansemond, Pamunkey, United Rappahannock, Upper Mattaponi, all non-Federally recognized Indian groups.

Between the late 1970s and mid 1980s, human remains representing 52 individuals were excavated by Floyd Painter, a local avocational archeologist,

and turned over to the Department of Historic Resources in 1985. No known individuals were identified. No associated funerary objects are present in the Department of Historic Resources' collections.

During 1981–1982, human remains representing seven individuals were recovered during legally authorized excavations by the Virginia Department of Historic Resources. No known individuals were identified. The five associated funerary objects include a ceramic pipe with tobacco residue, three copper pendents, and one copper bead.

During 1981–1982, human remains representing five individuals were recovered from another component of the Great Neck site during legally authorized excavations by the Virginia Department of Historic Resources. No known individuals were identified. These individuals are represented by one infant burial and the previously disturbed remains of a minimum four individuals. The approximately 100 associated funerary objects with the infant burial are shell disc beads.

The Great Neck site has been identified as a Chesapeake village site, possibly the village known as ''Chesepiooc'', based on historical documents dating back to the 15th century. The presence of shell-tempered Townsend and Roanoke ceramics indicate this village site was continuously occupied by the same culture from the Late Woodland period through protohistoric times (900—late 1500s AD). All these burials appear to date to this time, and the site appears to have been abandoned until settlement by English colonists in 1635.

By 1607, historical documents indicate Chesapeake people were attached and suffered heavy losses from the Powhatan Confederacy. The last mention of the Chesapeake in historical document was in 1627 concerning a proposed attack by the English on the Chesapeakes and other coastal Virginia tribes. There are no known descendants of the Chesapeake tribe, however, historical documents and consultation evidence indicates the Nansemond tribe was allied with the Chesapeake during the 16th and early 17th century. The Nansemond Tribal Association is a non-Federally recognized Indian group.

On October 28, 1994, the Virginia Department of Historic Resources requested a finding from the NAGPRA Review Committee concerning the Nansemond request for repatriation for these 64 individuals listed as ''culturally unidentifiable'' on the Department's NAGPRA inventory. At its October, 1994 meeting, the NAGPRA Review Committee recommended that the Department consult with the seven other non-Federally recognized Indian groups recognized by the State of Virginia to identify any other possibly culturally affiliated Indian tribes or non-Federally recognized Indian groups. This recommendation was provided to the Department by the National Park Service in a letter of March 22, 1995. Representatives of Chickahominy, Eastern Chickahominy, Mattaponi, Monacan, Pamunkey, United Rappahannock, and Upper Mattaponi have all stated unanimous support of the Nansemond Tribal Association request for repatriation of these human remains and associated funerary objects.

Based on the above mentioned information, officials of the Virginia Department of Historic Resources have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 64 individuals of Native American ancestry. Officials of the Virginia Department of Historic Resources have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 105 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Virginia Department of Historic Resources have determined that, pursuant to 25 U.S.C. 3001 (2), no relationship of shared group identity can be reasonably traced between these Native American human remains and associated funerary objects and a Federally recognized Indian tribe. However, officials of the Virginia Department of Historic Resources have determined that a relationship of shared group identity can be reasonably traced between these Native American human remains and associated funerary objects and the Nansemond Tribal Association, a non-Federally recognized Indian group.

This notice has been sent to officials of the Chickahominy, Eastern Chickahominy, Mattaponi Tribal Association, Monacan, Nansemond Indian Tribal Association, Pamunkey, United Rappahannock, Upper Mattaponi, all non-Federally recognized Indian groups. Representatives of any Federally recognized Indian tribe or other valid claimant under NAGPRA that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact M. Catherine Slusser, State Archeologist, Department of Historic Resources, 221 Governor St., Richmond, VA 23219; telephone: (804) 225–3556, before April 28, 1997. Repatriation of the human remains and associated funerary objects to the Nansemond Tribal Association may begin after that date if no Federally recognized Indian tribes or other valid claimant under NAGPRA makes a claim.

The National Park Service is not responsible for the determinations within this notice.

Dated: March 19, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7798 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–70–F

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: an update on the development of the Levee System Integrity component, the Water Use Efficiency component, the Ecosystem Restoration component, and the Storage and Conveyance component; an overview of the activities of the Ecosystem Roundtable; a description of two draft Alternative configurations; and other issues. The Ecosystem Roundtable (a subcommittee of the BDAC) will meet to discuss the following issues: proposal evaluation criteria, progress on the Workplan, the proposal solicitation package, emerging issues, needs assessment, and updates on other items. Interested persons may make oral statements to the BDAC or to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council meeting will be held from 9:30 am to 5:00 pm on Thursday, April 10, 1997. The Ecosystem Roundtable will meet from 9:30 am to 12:30 pm on Friday, April 11, 1997.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Sacramento Convention Center, 1400 J Street, Room 204, Sacramento, CA. The Ecosystem Roundtable will meet in Room 1131, 1416 Ninth Street, Sacramento, CA.

CONTACT PERSON FOR MORE INFORMATION: For the BDAC meeting, contact Sharon Gross, CALFED Bay-Delta Program, at (916) 657–2666. For the Ecosystem Roundtable meeting contact Cindy Darling, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal

Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual work plans to implement ecosystem restoration projects and programs.

Minutes of the meetings will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: March 21, 1997.

Kirk C. Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 97–7774 Filed 3–26–97; 8:45 am]

BILLING CODE 4310–94–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Acceptance of the American Schools and Hospitals Abroad (ASHA) Application for Assistance

SUMMARY: This applicant notice is for private U.S. organizations requesting grant assistance for overseas institutions under Section 214 of the Foreign Assistance Act. ''Applicant'' refers to the United States founder or sponsor of the overseas institution.

The Office of American Schools and Hospitals (ASHA) will accept applications for assistance in fiscal years 1997/1998, if received by ASHA on or before June 30, 1997.

FOR FURTHER INFORMATION CONTACT: The Office of American Schools and Hospitals Abroad (ASHA), (703) 351–0232.

SUPPLEMENTARY INFORMATION:

Title: American Schools and Hospitals Abroad.

Form No.: A.I.D.1010–2.

OMB No.: 0512–0011.

Type of Submission: Acceptance of Application for Assistance.

Abstract: The application was used by U.S. founders and sponsors in applying for grant assistance from ASHA on behalf of their institutions overseas. ASHA is a competitive grant program. Decisions are based on an annual comparative review of all applications requesting assistance in the fiscal year, pursuant to Section 214 of the Foreign Assistance Act, as amended.

ANNUAL REPORTING BURDEN:

Respondents: U.S. Not-for-profit organizations.

Number of Respondents: 85.

Estimated Total Annual Hour Burden on Respondents: 12.

Dated: March 18, 1997.

Mable S. Meares,

Acting Director, Office of American Schools and Hospitals Abroad, Bureau for Humanitarian Response.

[FR Doc. 97–7748 Filed 3–26–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Target/Threat Assessment Code Project

Notice is hereby given that, on March 6, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Advanced Target/Threat Assessment Code (''ATTAC'') Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to § 6(a) of the Act, the identities of the parties are: Nuclear Metals, Inc., Concord, MA; Southwest Research Institute, San Antonio, TX; and TNO Prins Maurits Laboratory, Rijswijk, NETHERLANDS.

The area of planned activity is to create an Advanced Target/Threat Assesment Code (''ATTAC'') to provide armor engineers and vulnerability analysts with a computer tool which can be used to perform detailed assessment of armor systems at all stages of development but utilizing advanced analytical penetration/perforation modeling procedures using a PC platform with extensive graphics capabilities by merging PMC software with penetration models previously developed by Southwest Research Institute.

Membership in the ATTAC Project will remain open and the ATTAC will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–7749 Filed 3–26–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymetrical Digital Subscriber Line Forum

Notice is hereby given that, on February 10, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Asymetrical Digital Subscriber Line Forum (''ADSL'') has filed written notifications simultaneously with the Attorney

General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have been added as members of ADSL: Advanced Fibre Communications, Fremont, CA; Atlantech Technologies, Glasgow, SCOTLAND; Cabletron Systems, Rochester, NH; Communications Technology Inc., Cambridge, MA; Promatory Communications Inc., Union City, CA; and Whittaker-Xyplex, Santa Clara, CA. The following have changed to Principal members: Bay Networks, Parsippany, NJ; Copper Development Association, New York, NY; Copper Mountain, Palo Alto, CA; Performance Telecom, Rochester, NY; Pulsecom, Herndon, VA; Southwestern Bell Technology Resources, Austin, TX; and Teradyne, Deerfield, IL. The following has withdrawn their membership from ADSL: Integrated Technology Express.

No changes have been made in the planned activities of the Forum. Membership remains open, and ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on July 25, 1995 (60 FR 38058).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–7750 Filed 3–26–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—''Cost Effective Planar Solid Oxide Fuel Cells for Power Generation''

Notice is hereby given that, on March 3, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Babcock & Wilcox Company has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plantiff's to actual damages under specified circumstances. Pursuant to Section (b) of the Act, the identities of the parties are: The Babcock & Wilcox Company, Alliance, OH; Intertec Southwest LLC, Tucson, AZ; and SOFCo L.O., Salt Lake City, UT. The project's general areas of planned activities is to develop and demonstrate Cost Effective Planar Solid Oxide Fuel Cells for Power Generation pursuant to NIST Competition No. ATP–G–96–01. The activities of this Joint Venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Joint Venture Worksheet

A. Name of venture: ''Cost Effective Planar Solid Oxide Fuel Cells for Power Generation''

Nature of notification: *X* original
supplemental

Concise statement of purpose: To develop and demonstrate Cost Effective Planar Solid Oxide Fuel Cells for Power Generation pursuant to NIST Competition No. ATP–G–96–01.

B. For ventures involving research and development only:

Identity of parties to the venture:

1. The Babcock & Wilcox Company, Alliance, OH
2. Intertec Southwest LLC, Tucson, AZ
3. SOFCo L.P., Salt Lake City, UT

[FR Doc. 97–7751 Filed 3–26–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on December 18, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to the membership. The notifcations were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically the following companies have joined CableLabs: United International Holdings, Inc., Denver, CO; and Southwest Missouri Cable TV, Inc., Carthage, MO.

No other changes have been made in either the membership or planned activity of CableLabs. Membership remains open and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593). The last notification with respect to membership changes was filed with the Department on August 13, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 19, 1996 (61 FR 67067).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–7752 Filed 3–26–97; 8:45 am]

BILLING CODE 4410–11–M

[OJP(NIJ)–1117]

RIN 1121–ZA64

National Institute of Justice's Arrestee Drug Abuse Monitoring (ADAM) Expansion to 35 Sites

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Researchers and analysts interested in assisting one of the municipalities identified as a potential ADAM site, or with being considered as an ADAM site director, should contact the appropriate Sheriff or Chief of Police directly about the municipality's application.

DATES: The deadline for receipt of proposals is close of business on Tuesday, April 15, 1997. Postmarked applications received after this date are not acceptable.

ADDRESSES: Proposals should be mailed to the National Institute of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center at 1–800–421–6771.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–03, as amended, 42 U.S.C. 3721–23 (1988).

Background

The National Institute of Justice (NIJ) is seeking applications from municipal representatives in a number of U.S.

cities (see below) to become Arrestee Drug Abuse Monitoring (ADAM) program sites.

The purpose of this **Federal Register** announcement is to inform researchers and analysts with an interest in assisting the municipalities listed below with their applications, or with being considered as potential ADAM Site Directors at one of the sites listed below, that they should contact the appropriate Sheriff or Chief of Police directly about the municipality's application.

Beginning in Fiscal Year 1998, ADAM will operate in 35 sites as an expansion and redesign of the 23-site Drug Use Forecasting (DUF) program.

By FY 2000, ADAM is expected to operate in 75 urban sites. ADAM will conduct quarterly interviews and drug tests with arrestees in urban lock-ups. Municipalities not appearing on the list below may be contacted in subsequent application cycles.

Only one application will be accepted from each municipality. The application must come from an official agency that has been solicited directly by NIJ. Each ADAM site will be operated by a host police or jail organization and a Site Director with research and policy analysis experience. Municipalities' applications must include lists of, or letters of support from, potential Site Directors.

Applications are due at NIJ on April 15, 1997. Individuals requiring additional information should contact NIJ's Response Center at 800–421–6770 (or 202–307–1480 in the Washington DC area).

Applications are being solicited from the following U.S. cities:

Albuquerque, NM
Anchorage, AK
Billings, MT
Boise, ID
Cheyenne, WY
Des Moines, IA
El Paso, TX
Fargo, ND
Fresno, CA
Honolulu, HI
Kansas City, MO
Laredo, TX
Las Vegas, NV
Little Rock, AR
Minneapolis, MN
Oklahoma City, OK
Sacramento, CA
Salt Lake City, UT
San Francisco, CA
Seattle, WA
Shreveport, LA
Spokane, WA
Sioux Falls, SD
Tucson, AZ
Wichita, KS

Dated: March 19, 1997.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 97–7769 Filed 3–26–97; 8:45 am]

BILLING CODE 4410–18–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York; Indian Point Nuclear Generating Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–64 issued to the Power Authority of the State of New York (the licensee) for the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24(a), which requires a monitoring system that will energize clearly audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed amendment would also exempt the licensee from the requirements of 10 CFR 70.24(a)(1), which specifies the detection and sensitivity capabilities of the monitors required by 10 CFR 70.24(a). Finally, the proposed action would exempt the licensee from the requirements of 10 CFR 70.24(a)(3), which states that the licensee shall maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored.

The proposed action is in accordance with the licensee's application for exemption dated December 20, 1996, as supplemented March 5, 1997, and March 19, 1997.

The Need for the Proposed Action

Power reactor license applicants are evaluated for the safe handling, use, and storage of special nuclear materials. The proposed exemption from criticality accident requirements is based on the original design for radiation monitoring at Indian Point Unit 3. An exemption from the requirements of 10 CFR 70.24(a), ''Criticality Accident Requirements,'' was granted in the Special Nuclear Material (SNM) licenses for IP3 as part of the 10 CFR Part 70 license; however, with the issuance of the Part 50 license this exemption expired because it was not specifically addressed in the Part 50 license. The proposed exemption is needed for IP3 to continue to operate in accordance with its license and Commission regulations.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there will be no significant environmental impact if the exemption is granted. The potential environmental impact evaluated was the increase in radiation dose as a result of an inadvertent criticality.

Inadvertent or accidental criticality during fuel handling will be prevented by Technical Specifications (i.e., requirements on minimum soluble boron concentration in the spent fuel pit), by procedure (i.e., compliance with the procedures for fuel handling), and by design (i.e., the geometric spacing of fuel assemblies in the new fuel storage facility and spent fuel storage pit).

Inadvertent or accidental criticality in the reactor vessel is prevented through compliance with the facility Technical Specifications, including reactivity requirements (e.g., shutdown margin limits and control rod movement limits), instrumentation requirements (e.g., power and radiation monitors), and control on refueling operations (e.g., refueling boron concentration and source range monitor requirements).

Adherence to procedures precludes inadvertent criticality; however, the licensee is pursuing a defense in-depth approach. During fuel handling, the licensee has committed to have in operation in the IP3 Fuel Storage Building at least one detector meeting the requirements of Sections 5.6 and 5.7 of ANSI/ANS 8.3 (1986), ''American National Standard Criticality Alarm System.'' The detection and sensitivity requirements of ANSI/ANS 8.3 are as rigorous as those of 10 CFR 70.24(a)(1). Upon detection, this detector shall automatically cause an immediate alarm audible in all areas from which evacuation is necessary to minimize exposure. The licensee maintains emergency procedures and trains radiation workers on the proper actions should such an alarm occur.

Because inadvertent criticality is precluded by both design and procedure, because adequate radiation monitoring is present, and because the licensee maintains emergency procedures for the areas in which fuel is handled, the staff has concluded that there is adequate assurance that an inadvertent criticality and the attendant

increase radiation doses will not result from granting this exemption. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed exemption involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative would be to deny the requested exemption. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of Indian Point Unit 3 dated December 1975.

Agencies and Persons Consulted

In accordance with its stated policy, on March 12, 1997, the staff consulted with the New York State Official, Mr. Jack Spath of the New York State Energy Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 20, 1996, as supplemented March 5, 1997, and March 19, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at White Plains Public Library, 100 Martine Avenue, White Plains, New York.

Dated at Rockville, Maryland, this 25th day of March 1997.

For the Nuclear Regulatory Commission.

George F. Wunder,

Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–7913 Filed 3–26–97; 9:49 am]

BILLING CODE 7590–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: DOE/NRC Form 742, ''Material Balance Report;'' NUREG/BR–0007, ''Instructions for Completing Material Balance Report and Physical Inventory Listing;'' and DOE/NRC Form 742C, ''Physical Inventory Listing.''

2. Current OMB approval number:
DOE/NRC Form 742 and NUREG/BR–0007: 3150–0004
DOE/NRC Form 742C: 3150–0058

3. How often the collection is required: DOE/NRC Forms 742 and 742C are submitted semiannually following a physical inventory of nuclear materials.

4. Who is required or asked to report: Persons licensed to possess specified quantities of special nuclear or source material.

5. The number of annual respondents:
DOE/NRC Form 742: 300 licensees
DOE/NRC Form 742C: 120 licensees

6. The number of hours needed annually to complete the requirement or request:
DOE/NRC Form 742: 450 hours
DOE/NRC Form 742C: 1,440 hours

7. Abstract: Each licensee authorized to possess special nuclear material totalling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, and any licensee authorized to possess 1,000 kilograms of source material is required to submit DOE/NRC Form 742. Reactor licensees required to submit DOE/NRC Form 742, and facilities subject to 10 CFR Part 75, are required to submit DOE/NRC Form 742C. The information is used by NRC to fulfill its responsibilities as a participant in US/IAEA Safeguards Agreement and bilateral agreements with Australia and Canada, and to satisfy its domestic safeguards responsibilities.

Submit, by May 27, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 20th day of March, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–7777 Filed 3–26–97; 8:45 am]

BILLING CODE 7590–01–P

Westinghouse Electric Corporation; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Enforcement, has issued a Director's Decision concerning a Petition dated May 30, 1996, filed by Mr. Shannon Doyle against Westinghouse Electric Corporation (Westinghouse) pursuant to § 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). The petition requested that the NRC institute a show cause proceeding pursuant to 10 CFR 2.202 and/or impose a civil penalty upon Westinghouse. The petition was based on Westinghouse's failure to correct the record and, through its counsel, provision of material false statements to a Department of Labor (DOL) Administrative Law Judge in a case arising under the Energy Reorganization Act, 89–ERA–022.

The Director, Office of Enforcement, has determined that the Petition should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (i.e., DD–97–07). In sum, the Petition raises matters which fall within the jurisdiction and authority of the DOL, rather than the NRC. Accordingly, this matter is being referred to the DOL. In reaching this decision, the Director considered the available documents, including the Petitioner's submittals dated May 30 and October 8, 1996, and Westinghouse's submittal dated November 8, 1996. The decision and the documents cited in the decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2120 L Street NW, Washington, DC.

A copy of this decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided therein, this decision will become final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 20th day of March 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 97–7776 Filed 3–26–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on March 5, 1997 (62 FR 10096). Individual authorities established or revoked under Schedules A and B and established under Schedule C between February 1, 1997, and February 28, 1997, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked during February 1997.

Schedule B

No Schedule B authorities were established or revoked during February 1997.

Schedule C

The following Schedule C authorities were established during February 1997:

Department of Agriculture

Special Assistant to the Director, Empowerment Zone/Enterprise Community. Effective February 14, 1997.

Department of the Army (DOD)

Special Assistant (Civilian Aide Program) to the Executive Staff Assistant, Office of the Secretary of the Army. Effective February 28, 1997.

Department of Defense

Staff Specialist to the Deputy Under Secretary of Defense (International and Commercial program). Effective February 5, 1997.

Confidential Assistant to the Secretary of Defense. Effective February 24, 1997.

Staff Specialist for Cuban Affairs to the Deputy Assistant Secretary of Defense (Inter-American Affairs). Effective February 24, 1997.

Private Secretary to the Deputy Secretary of Defense. Effective February 24, 1997.

Chauffeur to the Secretary of Defense. Effective February 28, 1997.

Personal and Confidential Assistant to the Secretary of Defense. Effective February 28, 1997.

Special Assistant to the Assistant Secretary for Health Affairs. Effective February 28, 1997.

Department of Education

Confidential Assistant to the Deputy Chief of Staff, Office of the Secretary. Effective February 10, 1997.

Confidential Assistant to the Chief of Staff. Effective February 21, 1997.

Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education. Effective February 25, 1997.

Special Assistant to the Senior Advisor to the Secretary, Director of America Reads. Effective February 25, 1997.

Department of Health and Human Services

Special Projects Coordinator to the Director of Scheduling. Effective February 24, 1997.

Department of Justice

Special Assistant to the Solicitor General. Effective February 11, 1997.

Counsel to the Assistant Attorney General, Civil Rights Division. Effective February 20, 1997.

Deputy Director to the Director, Violence Against Women Office. Effective February 27, 1997.

Department of Labor

Special Assistant to the Deputy Assistant Secretary for Policy. Effective February 11, 1997.

Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs. Effective February 26, 1997.

Department of State

Special Assistant to the Assistant Secretary, Bureau of Consular Affairs. Effective February 12, 1997.

Department of the Treasury

Senior Advisor to the Assistant Secretary for Enforcement. Effective February 4, 1997.

Special Assistant to the Chief of Staff. Effective February 10, 1997.

Legislative Analyst to the Director, Office of Legislative Affairs. Effective February 21, 1997.

Public Affairs Specialist to the Senior Advisor and Director, Office of Public Affairs. Effective February 25, 1997.

Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison). Effective February 26, 1997.

Equal Employment Opportunity Commission

Media Contact Specialist (Bilingual) to the Director, Office of Communications and Legislative Affairs. Effective February 3, 1997.

General Services Administration

Senior Advisor to the Commissioner, Public Buildings Service. Effective February 28, 1997.

National Aeronautics and Space Administration

Special Assistant to the Administrator, National Aeronautics and Space Administration. Effective February 27, 1997.

National Credit Union Administration

Communications and Administrative Assistant to the Board Member. Effective February 18, 1997.

Office of Personnel Management

Deputy Director of Communications to the Director of Communications. Effective February 25, 1997.

U.S. Arms Control and Disarmament Agency

Special Assistant to the Director, U.S. Arms Control Disarmament Agency. Effective February 11, 1997.

United States Trade and Development Agency

Congressional Liaison Officer to the Director of the U.S. Trade and Development Agency. Effective February 28, 1997.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–7780 Filed 3–26–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38427; File No. SR–CTA/CQ–97–1]

Consolidated Tape Association; Notice of Filing of First Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan

March 21, 1997.

Pursuant to Rule 11Aa3–2 of the Securities Exchange Act of 1934, as amended (''Act''), notice is hereby given that on March 14, 1997, the Consolidated Tape Association (''CTA'') Plan Participants filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') amendments to the Restated CTA Plan. The Commission is publishing this notice to solicit comments from interested persons on the amendments.

I. General Overview of the Amendment

First Substantive Amendment to the Second Restatement of the CTA Plan

The Participants to the CTA Plan propose to amend the Second Restatement of the CTA Plan.[1] The amendment would modify the CTA Plan's procedures for resuming the dissemination of last sale prices following a regulatory halt. More specifically, the amendment would reduce from 15 minutes to ten minutes the period that must elapse before the Processor can resume the dissemination of market data after the primary market for the halted security notifies the Processor that the information that triggered the halt has been adequately disclosed. The text of the proposed amendment is available from the CTA and at the Commission.

II. Description and Purpose of the Amendments

A. Rule 11Aa3–2

Section XI(a) of the Second Restatement of the CTA Plan recognizes the right of the primary market for a security to halt or suspend trading in the security if it feels that the non-disclosure of information relating to the security or other regulatory problems warrants that action. After the primary market notifies the Processor that the information that triggered the halt has been adequately disclosed, the Processor is required to disseminate indications of interest for the security that any Participant may provide.

If the primary market provides an indication of interest within 15 minutes of the time that it notifies the Processor about the adequate information disclosure, the Processor may resume its dissemination of last sale information relating to the security at the end of that 15-minute period.

If the primary market does not provides an indication of interest within 15 minutes of its notice to the Processor of the adequate information disclosure, then within five minutes of the end of that period, the primary market must cause the Processor to include on the consolidated tape an administrative message. The message must signify the continuation of the halt or announce the existence of a market condition that relates to the trading of the security in the primary market. In the latter case (i.e., the announcement), the halt terminates five minutes after the announcement, at which time the Processor is to resume disseminating last sale information relating to the security.

The proposed amendment will reduce the 15-minute period to ten minutes. This amendment will enable trading in the security to resume ten minutes after the security's primary market notifies the Processor that the requisite information has been adequately disclosed. In the context of a halt that involves the announcement of an existing market condition, the amendment will also expedite the time by which the primary market must make the announcement, thereby expediting the resumption of the Processor's dissemination of last sale information relating to the security.

The post-disclosure waiting period is primarily intended to allow an adequate opportunity for an appropriate level of dispersion of the information that triggered the trading halt. The Participants believe that significant increases in the speed of communications allow for rapid dissemination of information and rapid response to that disseminated information.

Moreover, the Participants believe the increases in the speed of communications have shifted the balance between timeliness and the price discovery. That is, ten minutes, rather than 15 minutes, has become an appropriate period to arrive at a price that reflects an appropriate equilibrium of buying and selling interest. The proposed amendment will allow a stock to open or re-open in a more expeditious manner, while still providing sufficient time for the appropriate pricing of orders. As a result, the Participants believe the

[1] The Commission approved the Second Restatement of the CTA Plan on May 9, 1996. *See* Securities Exchange Act Release No. 37191, 61 FR 24842.

proposed amendment strikes an appropriate balance between the preservation of the price discovery process and the provision of timely opportunities for investors to participate in the market.

In addition, the amendment would conform the CTA Plan to rule changes of the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''AMEX'').[2] In relevant part, those rule changes reduce from 15 minutes to ten minutes the duration of the time period that must elapse between the first publication of an indication of interest following a trading halt and the reopening of trading in the halted security.

Without the instant amendment to the CTA Plan, the NYSE and AMEX rule changes would create the following anomaly: If an indication of interest for a security is published less than five minutes after NYSE or AMEX announces that the information that gave rise to a regulatory trading halt has been adequately dispersed, NYSE and AMEX rules would allow the specialist to reopen trading in the security before the CTA Plan would allow the Processor to report the security's last sale price information. This amendment would eliminate the anomaly.

Governing or Constituent Document

The proposed amendment does not change any governing or constituent document relating to a person authorized to implement or administer the CTA Plan on behalf of the Participants.

Implementation of Amendment

The Participants plan to implement the proposed changes upon (a) the completion of necessary systems modification (which the Commission is told are minor in nature) and (b) in respect of the applicability of the proposed amendment to Network B Eligible Securities, Commission approval of the Proposed AMEX Rule.

Development and Implementation Phases

See Item II(A)(3).

Analysis of Impact on Competition

The Participants believe the proposed amendment will impose no burden on competition.

Written Understanding or Agreement Relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretation of its CTA Plan or conditions for becoming a CTA Plan Participant.

Approval by Sponsors in Accordance with Plan

Under Section IV(b) of the CTA Plan, each of the CTA Plan's Participants must execute a written amendment to the CTA Plan before the amendment can become effective. The amendment is so executed.

Description of Operation of Facility Contemplated by the Proposed Amendment

The Participants believe the proposed amendment does not change the manner in which the CTA Plan's facilities will be operated.

Terms and Conditions of Access

The Participants believe the amendment does not change the terms and conditions of access.

Method of Determination and Imposition, and Amount of, Fees and Charges

The proposed amendment neither imposes any new fee or charge nor alters any existing fee or charge.

Method and Frequency of Processor Evaluation

The proposed amendment does not change the method of frequency for evaluating the CTA Plan Processor.

Dispute Resolution

The proposed amendment does not change the method by which disputes may be resolved under the CTA Plan.

B. Rule 11Aa3–1

Reporting Requirements

The Participants believe the proposed amendment would not affect the CTA Plan's reporting requirements.

Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

In the context of a regulatory halt, the proposed amendment would expedite by five minutes the time by which the Processor must make a security's last sale prices available after the primary market for the security notifies the processor that the information that triggered the halt has been adequately disseminated.

Manner of Consolidation

The proposed amendment does not change the manner by which the Participants consolidate last sale prices.

Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

The proposed amendment does not change the standards and methods by which the CTA Plan ensures, promptness, accuracy and completeness.

Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

The Participants believe the ten minute waiting period provides adequate opportunity for the dispersion of the information that triggered the halt.

Terms of Access to Transaction Reports

The Participants believe the proposed amendment has no effect on the CTA Plan's specific terms of access to transaction reports made available under the CTA Plan.

Identification of Marketplace of Execution

The proposed amendment has no effect on the provisions of the CTA Plan that require displays to identify the marketplace where each transaction was executed.

III. Solicitation of Comments

The CTA in its filing requested immediate effectiveness (subject to the implementation period described above) of this amendment pursuant to Rule 11Aa3–2(c)(3)(ii) under the Act. That rule provides that amendments concerned solely with the administration of the plan may be put into effect upon filing if so designated by the Participants. The Commission does not believe that this filing is concerned solely with the administration of the Plan. Rather the proposed amendment would have an effect upon trading practices within the National Market System. Moreover, the Commission today has also published for comment a rule proposal by the AMEX that relates to the applicability of the proposed CTA amendment to Network B eligible securities.[3] Consequently, the Commission has decided to publish this proposed amendment in accordance with Rule 11Aa3–2(c)(1).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

[2] The Commission approved the NYSE rule changed on January 31, 1997. *See* Exchange Act Release No. 38225, 62 FR 5875 (February 7, 1997). The AMEX has filed in its version (the ''Proposed AMEX Rule'') with the Commission and the Commission is by separate Notice publishing the proposed rule for comment today. *See* Exchange Act Released No. 38426 (March 21, 1997).

[3] *Id.*

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CTA. All submissions should refer to the file number in the caption above and should be submitted by April 17, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7784 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22578; 812–10478]

Goldman Sachs & Co.; Notice of Application

March 21, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Goldman Sachs & Co. (''Goldman Sachs'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 12(d) (1) and 14(a) of the Act, and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Goldman Sachs requests an order with respect to the Automatic Common Exchange Security Trusts and future trusts that are substantially similar and for which Goldman Sachs will serve as a principal underwriter (the ''Trusts'') that would (a) permit other registered investment companies to own a greater percentage of the total outstanding voting stock (the ''Securities'') of any Trust than that permitted by section 12(d)(1), (b) exempt the Trusts from the initial net worth requirements of section 14(a), and (c) permit the Trusts to purchase U.S. government securities from Goldman Sachs at the time of a Trust's initial issuance of Securities.

FILING DATES: The application was filed on January 7, 1997. Applicants have agreed to file an amendment during the notice period the substance of which is incorporated herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 15, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 85 Broadway, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Attorney, at (202) 942–0572, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. Goldman Sachs will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the Securities issued to the public by each Trust.

2. Each Trust will, at the time of its issuance of Securities, (a) enter into one or more forward purchase contracts (the ''Contracts'') with a counterparty to purchase a formulaically-determined number of a specified equity security or securities (the ''Shares'') of one specified issuer, and (b) in some cases, purchase certain U.S. Treasury securities (''Treasuries''), which may include interest-only or principal-only securities maturing at or prior to the Trust's termination. The Trusts will purchase the Contracts from counterparties that are not affiliated with either the relevant Trust or applicant. The investment objective of each Trust will be to provide to each holder of Securities (''Holder'') (a) current cash distributions from the proceeds of any Treasuries, and (b) limited participation in, or limited exposure to, changes in the market value of the underlying Shares.

3. In all cases, the Shares will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value thereof, that will be delivered to a Trust pursuant to the Contracts may be fixed (*e.g.*, one Share per Securities issued) or may be determined pursuant to a formula; the product of which will vary with the price of the Shares. A formula generally will result in each Securities Holder receiving fewer Shares as the market value of such Shares increases, and more Shares as their market value decreases.[1] At the termination of each Trust, each Holder will receive the number of Shares per Securities, or the value thereof, as determined by the terms of the Contracts, that is equal to the Holder's *pro rata* interest in the Shares or amount received by the Trust under the Contracts.

4. Securities issued by the Trusts will be listed on a national securities exchange or traded on the National Association of Securities Dealers Automated Quotation System. Thus the Securities will be ''national market system'' securities subject to public price quotation and trade reporting requirements. After the Securities are issued, the trading price of the Securities is expected to vary from time to time based primarily upon the price of the underlying Shares, interest rates, and other factors affecting conditions and prices in the debt and equity markets. Goldman Sachs currently intends, but will not be obligated, to make a market in the Securities of each Trust.

5. Each Trust will be internally managed by three trustees and will not have any separate investment adviser.

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[4] 17 CFR 200.30–3(a)(27) (1989).

[1] A formula is likely to limit the Holder's participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder's exposure to any depreciation in the underlying Shares. It is anticipated that the Holders will receive a yield greater than the ordinary dividend yield on the Shares at the time of the issuance of the Securities, which is intended to compensate Holders for the limit on the Holders' participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

The trustees will have limited or no power to vary the investments held by each Trust. The day-to-day administration of each Trust will be carried out by Goldman Sachs. A bank qualified to serve as a trustee under the Trust Indenture Act of 1939, as amended, will act as custodian for each Trust's assets and as paying agent, registrar, and transfer agent with respect to the Securities of each Trust. Such bank will have no other affiliation with, and will not be engaged in any other transaction with, any Trust.

6. The Trusts will be structured so that the trustees are not authorized to sell the Contracts or Treasuries under any circumstances. The Trusts will hold such Contracts until maturity, at which time they will be settled according to their terms.

7. The trustees of each Trust will be selected initially by Goldman Sachs, together with any other initial Holders, or by the grantors of such Trust. The Holders of each Trust will have the right, upon the declaration in writing or vote of more than two-thirds of the outstanding Securities of the Trust, to remove a trustee. Holders will be entitled to a full vote for each Securities held on all matters to be voted on by Holders and will not be able to cumulate their votes in the election of trustees. The investment objectives and policies of each Trust may be changed only with the approval of a ''majority of the Trust's outstanding Securities'' [2] or any greater number required by the Trust's constituent documents. Unless Holders so request, it is not expected that the Trusts will hold any meetings of Holders, or that Holders will ever vote.

8. The Trusts will not be entitled to any rights with respect to the Shares until any Contracts requiring delivery of the Shares to the Trust are settled, at which time the Shares will be promptly distributed to Holders. The Holders, therefore, will not be entitled to any rights with respect to the Shares (including voting rights or the right to receive any dividends or other distributions in respect thereof) until receipt by them of the Shares at the time the Trust is liquidated.

9. Each Trust will be structured so that its organizational and ongoing expenses will not be borne by the Holders, but rather, directly or indirectly, by the counterparties, or another third party (which could include Goldman Sachs), as will be described in the prospectus for the relevant Trust. At the time of the original issuance of the Securities of any Trust, there will be paid to each of the administrator, the custodian, and the paying agent, and to each trustee, a one-time amount in respect of such agent's fee over its term. Any expenses of the Trust in excess of this anticipated amount will be paid as incurred by a party other than the Trust itself (which party may be Goldman Sachs).

[2] A ''majority of the Trust's outstanding Securities'' means the lesser of (a) 67% of the Securities represented at a meeting at which more than 50% of the outstanding Securities are represented, and (b) more than 50% of the outstanding Securities.

Applicant's Legal Analysis

A. Sections 12(d)(1) and 14(a)

1. Section 6(c) of the Act provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 12(d)(1)(A) of the Act prohibits any registered investment company from owning more than 3% of the total outstanding voting stock of any other investment company. Section 12(d)(1)(C) of the Act similarly prohibits any investment company and other investment companies having the same investment adviser from owning more than 10% of the total outstanding voting stock of any other closed-end investment company.

3. Applicant believes, in order for the Trusts to be marketed most successfully, and to be traded at a price that most accurately reflects their asset value, that it is necessary for the Securities of each Trust to be offered to large investment companies and investment company complexes. Applicant states that large investment companies and investment company complexes seek to spread fixed costs of analyzing specific investment opportunities by making sizable investments in those opportunities that prove attractive. Conversely, it may not be economically rational for such investors, or their advisers, to take the time to review an investment opportunity if the amount that they would ultimately be permitted to purchase is immaterial in light of the total assets of the investment company or investment company complex. Therefore, applicant argues that, in order for the Trusts to be economically attractive to large investment companies and investment company complexes, such investors must be able to acquire Securities in each Trust in excess of the limitations imposed by section 12(d)(1). Applicant requests that the SEC issue an order under section 6(c) exempting the Trusts from such limitations.

4. Section 12(d)(1) is intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the ''pyramiding'' of control over portfolio funds by fund-holding companies and the layering of costs to investors.

5. The pyramiding concerns fall into two categories. One arises from the potential for undue influence resulting from the pyramiding of voting control of the acquired investment company. Applicant believes that this concern generally does not arise in the case of the Trusts because neither the trustees nor the Holders will have the power to vary the investments held by each Trust or to acquire or dispose of the assets of the Trusts. To the extent that Holders can change the composition of the board of trustees or the fundamental policies of each Trust by vote, applicant argues that any concerns regarding undue influence will be eliminated by including a provision in the charter documents for the Trusts that will require that any investment companies owning voting stock of any Trust in excess of the limits imposed by sections 12(d)(1)(A) and 12(d)(1)(C) will vote their Securities in proportion to the votes of all other Holders.

6. The second concern with respect to pyramiding is that an acquiring investment company might be able to influence unduly the persons operating the acquired investment fund. This undue influence could arise through a threat to redeem assets invested in the underlying fund at a time, or in a manner, which is disadvantageous to that fund, or to threaten to vote shares in that fund in a manner inconsistent with the best interests of that fund and its shareholders. Applicant believes that this concern does not arise in the case of the Trusts because the Securities will not be redeemable and because the trustees' management control will be so limited.

7. The second major objective of section 12(d)(1) is to avoid imposing on investors the excessive costs and fees that may result from multiple layers of investments. Excessive costs can result from investors paying double sales charges when purchasing shares of a fund which, in turn, invests in other funds, or from duplicative expenses arising from the operation of two funds in place of one. Applicant believes that neither of these concerns arises in the case of the Trusts because of the limited on-going fees and expenses incurred by the Trusts and the fact that generally

such fees and expenses will be borne, directly or indirectly, by Goldman Sachs or another third party, not by the Holders. In addition, the Holders will not, as a practical matter, bear the organization expenses (including underwriting expenses) of the Trusts. Applicant asserts that such organization expenses effectively will be borne by the counterparties in the form of a discount in the price paid to them for the Contracts, or will be borne directly by Goldman Sachs, the counterparties, or other third parties. Thus, a Holder will not pay duplicative charges to purchase its investment in any Trust. Finally, there will be no duplication of advisory fees because the Trusts will be internally managed by their trustees.

8. Applicant believes that the investment product offered by the Trusts serves a valid business purpose. The Trusts, unlike most registered investment companies, are not marketed to provide investors with either professional investment asset management or the benefits of investment in a diversified pool of assets. Rather, applicant asserts that the Securities are intended to provide Holders with a security having unique payment and risk characteristics, including an anticipated higher yield than the ordinary dividend yield on the Shares at the time of the issuance of the Securities.

9. Applicant believes that the purposes and policies of section 12(d)(1) are not implicated by the Trusts and that the requested exemption from section 12(d) (1) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

10. Section 14(a) of the Act requires, in pertinent part, that an investment company have a net worth of at least $100,000 before making any public offering of its shares. The purpose of section 14(a) is to ensure that investment companies are adequately capitalized prior to or simultaneously with the sale of their securities to the public. Rule 14a–3 exempts from section 14(a) unit investment trusts that meet certain conditions in recognition of the fact that, once the units are sold, a unit investment trust requires much less commitment on the part of the sponsor than does a management investment company.

11. Applicant argues that, while the Trusts are classified as management companies, they have the characteristics of unit investment trusts that are relevant to the rule 14a–3 exemption. Rule 14a–3 provides that a unit investment trust investing in eligible trust securities shall be exempt from the net worth requirement, provided that the trust holds at least $100,000 of eligible trust securities at the commencement of a public offering. Investors in the Trusts, like investors in a traditional unit investment trust, will not be purchasing interests in a managed pool of securities, but rather in a fixed and disclosed portfolio that is held until maturity. Applicant believes that the make-up of each Trust's assets, therefore, will be ''locked-in'' for the life of the portfolio, and there is no need for an ongoing commitment on the part of the underwriter.

12. Applicant states that, in order to ensure that each Trust will become a going concern, the Securities of each Trust will be publicly offered in a firm commitment underwriting, registered under the Securities Act of 1933, and resulting in net proceeds to each Trust of at least $10,000,000. Prior to the issuance and delivery of the Securities of each Trust to the underwriters, the underwriters will enter into an underwriting agreement pursuant to which they will agree to purchase the Securities subject to customary conditions to closing. The underwriters will not be entitled to purchase less than all of the securities of each Trust. Accordingly, applicant states that either the offering will not be completed at all or each Trust will have a net worth substantially in excess of $100,000 on the date of the issuance of the Securities. Applicant also does not anticipate that the net worth of the Trusts will fall below $100,000 before they are terminated.

13. Applicant requests that the SEC issue an order under section 6(c) exempting the Trusts from any requirements of section 14(a). Applicant believes that such exemption is appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act.

B. Section 17(a)

1. Sections 17(a)(1) and 17(a)(2) of the Act generally prohibit the principal underwriter of any investment company from selling or purchasing any securities to or from that investment company. The result of these provisions is to preclude the Trusts from purchasing Treasuries from Goldman Sachs.

2. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Applicant requests an exemption from sections 17(a)(1) and 17(a)(2) to permit the Trusts to purchase Treasuries from applicant at the time of the Trust's entry into Contracts and issuance of Securities.

3. Applicant states that the policy rationale underlying section 17(a) is the concern that an affiliated person of an investment company, by virtue of such relationship, could cause an investment company to purchase securities of poor quality from the affiliated person or to overpay for any securities. Applicant argues that it is unlikely that Goldman Sachs would be able to exercise any adverse influence over the Trusts with respect to purchases of Treasuries because Treasuries do not vary in quality and are traded in one of the most liquid markets in the world. Treasuries are available through both primary and secondary dealers, making the Treasury market very competitive. In addition, market prices on Treasuries can be confirmed on a number of commercially available information screens. Applicant argues that because Goldman Sachs is one of a limited number of primary dealers in Treasuries, Goldman Sachs will be able to offer the Trusts prompt execution of their Treasury purchases at very competitive prices.

4. Applicant states that it is only seeking relief from section 17(a) with respect to the initial purchase of the Treasuries and not with respect to an on-going course of business. Consequently, investors will know before they purchase a Trust's Securities the Treasuries that will be owned by the Trust and the amount of the cash payments that will be provided periodically by the Treasuries to the Trust and distributed to Holders. Applicant also asserts that whatever risk there is of overpricing the Treasuries will be borne by the counterparties and not by the Holders because the cost of the Treasuries will be calculated into the amount paid on the Contracts. Applicant argues that, for this reason, the counterparties will have a strong incentive to monitor the price paid for the Treasuries, because any overpayment could result in a reduction in the amount that they would be paid on the Contracts.

5. Applicant believes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person, that the proposed transaction is consistent with the policy of each of the Trusts, and that the requested

exemption is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policies and provisions of the Act.

Applicant's Conditions

Applicant agrees that the order granting the requested relief shall be subject to the following conditions:

1. Any investment company owning voting stock of any Trust in excess of the limits imposed by section 12(d)(1) of the Act will be required by the Trust's charter document to vote its Trust shares in proportion to the vote of all other Holders.

2. The trustees of each Trust, including a majority of the trustees who are not interested persons of the Trust, (a) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (b) will make and approve such changes as deemed necessary; and (c) will determine that the transactions made pursuant to the order were effected in compliance with such procedures.

3. The Trusts (a) will maintain and preserve in an easily accessible place a written copy of the procedures (and any modifications thereto), and (b) will maintain and preserve for the longer of (x) the life of the Trusts and (y) six years following the purchase of any Treasuries, the first two years in an easily accessible place, a written record of all Treasuries purchased, whether or not from applicant, setting forth a description of the Treasuries purchased, the identify of the seller, the terms of the purchase, and the information or materials upon which the determinations described below were made.

4. The Treasuries to be purchased by each Trust will be sufficient to provide payments to Securities Holders that are consistent with the investment objectives and policies of the Trust as recited in the Trust's registration statement and will be consistent with the interests of the Trust and the Holders of its Securities.

5. The terms of the transactions will be reasonable and fair to the Holders of the Securities issued by each Trust and will not involve overreaching of the Trust or the Holders of Securities threrof on the part of any person concerned.

6. The fee, spread, or other remuneration to be received by Goldman Sachs will be reasonable and fair compared to the fee, spread, or other remuneration received by dealers in connection with comparable transactions at such time, and will comply with section 17(e)(2)(C) of the Act.

7. Before any Treasuries are purchased by the Trust, the Trust must obtain such available market information as it deems necessary to determine that the price to be paid for, and the terms of, the transaction is at least as favorable as that available from other sources. This shall include the Trust obtaining and documenting the competitive indications with respect to the specific proposed transaction from two other independent government securities dealers. Competitive quotation information must include price and settlement terms. These dealers must be those who, in the experience of the Trust's trustees, have demonstrated the consistent ability to provide professional execution of Treasury transactions at competitive market prices. They also must be those who are in a position to quote favorable prices.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7785 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22577; 811–3774]

Insured Tax-Exempt Lease Trust Series 1; Notice of Application

March 21, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Insured Tax-Exempt Lease Trust Series 1.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant request an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on November 19, 1996, and amended on February 24, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 15, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, One North Jefferson, St. Louis, Missouri 63103.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered unit investment trust under the Act. On June 1, 1983, applicant filed a notification of registration on Form N–8A under the Act and filed a registration statement on Form S–6 under the Securities Act of 1933. Its sponsor was A.G. Edwards & Sons, Inc.

2. Applicant's registration statement was never declared effective, and its legal existence was never created under the laws of any State. Accordingly, applicant has not sold any securities of which it is the issuer. Nor does applicant have any securityholders, debts, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7786 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26689]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 21, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed

transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 14, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp. (70–8989)

FirstEnergy Corp., 76 South Main Street, Akron, Ohio 44308, an Ohio corporation (''FirstEnergy''), has filed an application under sections 9(a)(2) and 10 of the Act.

FirstEnergy proposes to acquire, directly or indirectly, all of the issued and outstanding voting securities (the ''Common Stock'') of Ohio Edison Company (''Ohio Edison''), The Cleveland Electric Illuminating Company (''Cleveland Electric''), The Toledo Edison Company (''Toledo Edison'') and Pennsylvania Power Company (''Penn Power''), as well as 20.5% of the Common Stock of Ohio Valley Electric Corporation (''OVEC'') which, in turn, owns all of the Common Stock of Indiana-Kentucky Electric Corporation (''IKEC''). Each of Ohio Edison, Cleveland Electric, Toledo Edison, Penn Power, OVEC and IKEC (collectively, ''Utility Subsidiaries'') are ''electric utility companies'' as defined in section 2(a)(5) of the Act.

The proposed acquisitions would be accomplished by a merger of Centerior Energy Corporation (''Centerior'') and Ohio Edison with and into FirstEnergy. Centerior, an exempt public-utility holding company under section 3(a)(1) of the Act pursuant to rule 2 thereunder, currently owns all of the Cleveland Electric and Toledo Edison Common Stock. Toledo Edison owns 16.5% of OVEC Common Stock. Ohio Edison, an exempt public-utility holding company under section 3(a)(2) currently owns all of the Penn Power Common Stock.

The service territory of each Utility Subsidiary, other than Penn Power, is in Ohio. Ohio Edison and Penn Power operate as a single utility system providing retail service to 1.1 million customers in central and northeastern Ohio and western Pennsylvania. Toledo Edison and Cleveland Electric serve over one million retail customers in northeastern and northwestern Ohio. The service territories of Toledo Edison and Cleveland Electric are not contiguous, being separated by the service territory of Ohio Edison.

Ohio Edison has seven wholly owned subsidiaries besides Penn Power: OES Capital, Incorporated; OES Fuel, Incorporated; OES Finance, Incorporated; OES Financing Trust; Ohio Edison Financing Trust II; OES Nuclear, Incorporated; and OES Ventures, Incorporated (''Ventures''). These subsidiaries manage and finance nuclear fuel, finance certain electric accounts receivable and provide structures for investment in energy related projects. Ventures finances and manages businesses opportunities not directly related to the provision of electric service.

Centerior has four direct wholly owned subsidiaries other than Cleveland Electric and Toledo Edison: Centerior Service Company, which provides management, financial, administrative, engineering and legal services to Cleveland Electric and Toledo Edison at cost; Centerior Properties Company, CCO Company and Market Responsive Energy, Inc.

The Agreement and Plan of Merger, dated as of September 13, 1996 (the ''Merger Agreement'') between Ohio Edison and Centerior, provide, among other things, for (i) the merger of Centerior with and into FirstEnergy Corp. and (ii) the merger of another wholly owned subsidiary of FirstEnergy (''Ohio Edison Acquisition Corp.'') with and into Ohio Edison pursuant to the Ohio Edison Merger Agreement (collectively, the ''Merger''). Following the Merger, FirstEnergy will be a holding company which will directly hold all of the Ohio Edison Common Stock, Cleveland Electric Common Stock and Toledo Edison Common Stock. Penn Power will remain a wholly owned subsidiary of Ohio Edison. Each share of Centerior Common Stock would be converted into .525 shares of FirstEnergy Common Stock and each share of Ohio Edison Common Stock would be converted into one share of FirstEnergy Common Stock.

The boards of directors of Ohio Edison and Centerior have approved the Merger Agreement. Consummation of the proposed transactions is subject to the approval by shareholders of Ohio Edison and Centerior. Presuming this Commission approves the acquisitions, FirstEnergy states it intends to file for an exemption under section 3(a)(1) from all provisions of the Act, other than section 9(a)(2), pursuant to rule 2 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7787 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38426; File No. SR–AMEX–97–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Exchange Policy on Indications, Openings and Reopenings

March 21, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 4, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to revise Exchange policy regarding indications, openings and reopenings. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of an basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex specialists disseminate indications of interest to the consolidated tape prior to the opening or reopening of trading in a previously halted stock or in the event of a delayed opening. These indications communicate the probably price range where the stock will open or reopen.

The Amex's policy on dissemination of tape indications currently requires a minimum of 15 minutes to elapse between the first indication and the opening or reopening of a stock. In addition, when multiple indications are used, a minimum of 10 minutes must elapse after the last indication when it does no overlap the prior indication, and a minimum of 5 minutes must elapse after the last indication when it overlaps the prior indication.

The Exchange is proposing that these minimum time periods before opening or reopening a stock be compressed from 15 to 10 minutes after the first indication; and to 5 minutes after the last indication, regardless of whether it overlaps the prior indication, provided that a minimum of 10 minutes elapses between the first indication and the opening or reopening of a stock. The proposed rule shortens the time period for indications and strikes an appropriate balance between preserving the price discovery process while providing timely opportunities for investors to participate in the market.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[3] in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–AMEX–97–13 and should be submitted by April 17, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7782 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78f(b).

[4] 17 CFR 200.30–3(a)(12).

[Release No. 34–38422; File No. SR–PHLX 97–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Minimum Exercise Amount for Customized Foreign Currency Options

March 19, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 11, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 of the Act, proposes to amend Exchange Rule 1069(i) to revise the minimum exercise amount for customized foreign currency options from 100 to 50 contracts. The text of the proposed rule change follows (new text is italicized, deleted text is in brackets):

Customized Foreign Currency Options

Rule 1069.

A foreign currency option participant (''participant'') may request and obtain quotes and execute trades in any foreign currency option contract listed on the Exchange with a non-listed exercise price in accordance with this rule. Participants may also request and obtain quotes and execute trades in foreign currency options contracts with European-terms (inverses) or as a cross-rate. To the extent that the provisions of this rule are inconsistent with other Exchange rules, this rule takes precedence in relation to customized foreign currency options.

(a)–(h) No change.

(i) Exercise of Customized Options. When exercising customized options, the lesser of [100] *50* contracts or the remaining number of contracts must be exercised and the exercise limits in Rule 1002 will apply.

(j)–(k) No change.

[1] 15 U.S.C. § 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 3, 1997, the Exchange received approval to reduce the minimum transaction size for opening and closing transactions in customized foreign currency options from 100 contracts to 50 contracts.[2] In an oversight, the Exchange unintentionally did not make a conforming change to the provision in subsection (i) of Rule 1069. That provision currently states that ''when exercising customized options, the lesser of 100 contracts or the remaining number of contracts must be exercised and the exercise limits in Rule 1002 will apply.'' The minimum exercise amount should also have been reduced to 50 contracts. As the rule currently is written, an investor who only purchases 50 contracts and holds them until expiration could exercise all 50 contracts pursuant to the ''remaining number of contracts'' clause, however, the Exchange did not intend to impose a higher minimum exercise requirement than the minimum trading requirement. Accordingly, pursuant to this filing, the Phlx proposes to reduce the minimum exercise amount to the lesser of 50 contracts or the remaining number of contracts in the holder's position.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act[3] in general, and in particular, with Section 6(b)(5),[4] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest by imposing an exercise minimum which is consistent with the trading size minimums for the product.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from March 11, 1997, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[5]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–97–08 and should be submitted by April 17, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7783 Filed 3–26–97; 8:45 am]

BILLING CODE 8010–01–M

[2] *See* Securities Exchange Act Release No. 38113 (January 3, 1997), 62 FR 442 (January 9, 1997).

[3] 15 U.S.C. § 78f.

[4] 15 U.S.C. § 78(b)(5).

[5] 17 CFR 240.19b–4(e)(6).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Palm Beach International Airport, West Palm Beach, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 28, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce V. Pelly, Director of Airports of the Palm Beach County Department of Airports at the following address: Palm Beach International Airport, Building 846, West Palm Beach, Florida 33406–1491.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Palm Beach County Department of Airports under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT:

Mr. Bart Vernace, Airport Plans & Programs Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822, 407–812–6331. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 20, 1997, the FAA determined that the application to use the revenue from a PFC submitted by Palm Beach County Department of Aviation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 8, 1997.

The following is a brief overview of PFC Application No. 97–03–U–00–PBI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1997.

Proposed charge expiration date: May 1, 1999.

Total estimated PFC revenue: $13,605,792.

Brief description of proposed project(s): 97A Land Acquisition (Noise); 97B Direct Connect to I–95; 98C Land Acquisition (Noise); 99D Land Acquisition (Noise); 99E Part 150 Study.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi and Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Palm Beach County Department of Airports.

Issued in Orlando, Florida on March 20, 1997.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 97–7824 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. MC–97–13]

Development of a Directory of Offerors of Truck and Bus Brake Mechanic Training Courses and Materials

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for information.

SUMMARY: The FHWA is requesting information from companies and organizations that offer, to the motor carrier industry, training courses and training material concerning the maintenance of heavy truck and bus brake systems. The information will be used to develop a brake training resources directory to assist motor carriers in identifying companies or organizations that provide personal training and/or training materials that could be useful in helping motor carriers improve their brake maintenance programs. The directory will not serve as an endorsement or approval by the FHWA of the companies and organizations listed therein. The directory would be intended only to provide motor carriers with a detailed listing of all known offerors of brake training information, and brief descriptions of the courses or products and services that are available. This action is being taken to help motor carriers reduce the incidence of brake-related violations of the Federal Motor Carrier Safety Regulations, thereby improving safety on the Nation's highways.

DATES: Written comments must be received on or before May 27, 1997.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–97–13, room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, (202) 366–4009; or Mr. Charles E. Medalen, Office of Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Conference Committee report on the 1993 Department of Transportation Appropriations Act (Pub. L. 102–388, October 6, 1992) directed the FHWA to follow the instructions of the House report in obligating certain research funds, including funding research on means to improve the training of heavy truck brake mechanics. H.R. Conf. Rep. No. 102–924, at 35 (1992). The House report on the appropriations bill stated that ''the Committee believes the Federal Highway Administration should use the expertise available at the Trucking Research Institute for safety and research activities related to commercial motor vehicles.'' H.R. Rep. No. 102–639, at 85–86 (1992). The House report specifically recommended that the FHWA enter into a contract or cooperative agreement with the Trucking Research Institute (TRI) to study methods of improving the training of heavy truck brake mechanics. The TRI is a non-profit organization created by the American Trucking Associations Foundation, Inc.

The FHWA entered into a multi-task contract with the TRI covering several research subjects including brake mechanic training. The brake mechanic training portion of the research program was structured in two phases. Phase 1 covered problem identification, a review of data available from the FHWA's Motor Carrier Management Information System (MCMIS), carrier surveys, and discussion with industry experts. Phase 2 is being used for follow-up activities to resolve problems identified in Phase 1.

Recommendations Presented in the Phase I Report

The TRI submitted its final report on Phase 1 (''Commercial Vehicle Brake Violations in Roadside Inspections'') to the FHWA on June 2, 1995. A copy of the report for Phase I has been placed in the docket. The final report included the following recommendations to the FHWA and the motor carrier industry:

1. Motor carriers must accept the ultimate responsibility for the maintenance of their vehicles.

2. A vehicle demonstration program, incorporating the best current technology to provide a nearly maintenance-free brake system, should be developed to encourage the industry to produce and accept automatic slack adjusters, long-stroke chambers, and low-deflection components.

3. Brake suppliers and/or vehicle OEMs should develop and market a

system to alert drivers to brake defects (e.g., brake adjustment).

4. Mechanic and driver training should not be seen as a stand-alone solution to the brake violation problem.

5. Government and industry efforts to improve motor carrier management commitment to brake maintenance should take a targeted, rather than a general approach. The program should start with contacting high violation-rate carriers, informing them of their problems, and offering them help from both industry and government.

6. The vehicle identification number (VIN) should be recorded on each vehicle inspection report.

7. A simple, standardized tool should be developed for use by carriers and enforcement inspectors to measure pushrod travel.

Development of Publications Concerning Brake Maintenance

As part of the effort to follow up on the recommendations presented in the Phase 1 report, the FHWA and the TRI will work together in the development of publications to help increase industry awareness of the importance of proper brake maintenance and to inform carriers of the availability of technical information to improve their brake maintenance programs. The FHWA believes this work is necessary because the Phase 1 report indicated that brake suppliers and OEMs have developed a variety of training materials but that most motor carriers are not aware this material is available to them.

Information Requested

The FHWA and The Maintenance Council (TMC) of the American Trucking Associations are developing a brake training resources directory. This industry-wide directory will list information on brake training materials, classes, short courses, computer-based training, video training and any other types of brake training that are being offered to the motor carrier industry. The directory will be organized into two groups: personal instruction, and products/services. The directory is intended for distribution to all interested motor carriers with a special emphasis on motor carriers that appear to have unusually high brake-related violation rates during roadside inspections. The information will be published as a pamphlet with copies provided free of charge by the FHWA. The FHWA requests that interested parties submit detailed information on the types of training/training material that they offer to motor carrier industry.

Personal Training

The following information is requested:

1. Training format(s) (classroom, home-study, hands-on, computer-based, etc.);

2. Training availability (at the customer's request, mail order, call for current schedule);

3. Training cost (current price list, fee/tuition available upon request, or no charge);

4. Type of training organization (Federal, State or local government agency or department; college/university, vocational/trade school; association; business/corporation);

5. Length of course; and

6. Training location(s).

Products/Services

The following information is requested:

1. Product format(s) (video, slides, printed material, audio tapes, computer-based, computer compact disc (CD–ROM));

2. Product/services cost (current price list, fees available upon request, or no charge); and

3. Type of organization offering the products/services (Federal, State or local government agency or department; college/university, vocational/trade school; association; business/corporation).

Deadline for Submission of Information

All information received before the close of business on the comment closing date indicated in the caption ''DATES'' will be considered and will be available for examination in the docket room at the above address. Information received after the comment closing date will be filed in the docket and will be considered to the extent practicable. The FHWA, however, may publish the directory at any time after the close of the comment period. The FHWA will publish a notice of availability in the **Federal Register** when the directory is completed.

(49 U.S.C. 31133; 49 CFR 1.48)

Issued on: March 19, 1997.

Jane Garvey,

Acting Administrator, Federal Highway Administration.

[FR Doc. 97–7736 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–22–P

Maritime Administration

[Docket No. M–031]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Carey Brady, Trade Specialist, Office of Cargo Preference, Maritime Administration, MAR–590, Room 8118, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone 202–366–5524 or fax 202–366–5522. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Monthly Report of Ocean Shipments Moving Under Export-Import Bank Financing.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0013.

Form Number: MA–518.

Expiration Date of Approval: September 30, 1997.

Summary of Collection of Information: Title 46 App. U.S.C. 1241–1, Public Resolution 17, 73rd Congress (PR 17), requires the Maritime Administration (MARAD) to monitor and enforce the U.S.-flag shipping requirements relative to the loans/guarantees extended by the Export-Import Bank (Eximbank) to foreign borrowers. PR 17 requires that all shipments financed by Eximbank and that move by sea, must be transported exclusively on U.S.-flag registered vessels unless a waiver is obtained from MARAD.

Need and Use of the Information: The prescribed monthly report is necessary for MARAD to fulfill its responsibilities under PR 17, to ensure compliance of ocean shipping requirements operating under Eximbank financing and to ensure equitable distribution of shipments between U.S.-flag and foreign ships. MARAD will use this information to report annually to Congress, the total shipping activities during the calendar year.

Annual Responses: 336.

Annual Burden: 168 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 24, 1997.

Joel C. Richard,

Secretary.

[FR Doc. 97–7826 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

[Docket No. PS–142; Notice 5]

Requests for Applications for the Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice of request for letters of intent.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) invites eligible pipeline operators to submit Letters of Intent expressing interest in participating in its Pipeline Risk Management Demonstration Program. This notice begins the solicitation process by specifying a deadline and address for Letters of Intent, by directing interested operators to supplementary guidance documents, and by providing updated guidance for operators interested in participating.

DATES: Letters of Intent will be accepted no later than July 25, 1997.

ADDRESSES: Letters of Intent should be sent to Richard B. Felder, Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Room 2335, 400 7th St., SW, Washington, DC, 20590.

SUPPLEMENTAL DOCUMENTS:

(1) Program Framework for Risk Management Demonstrations (61 FR 58605): Describes the processes by which OPS will receive, review, approve, monitor, modify, and terminate company risk management demonstration projects, and provides a description of the information a company should include in its Letter of Intent. The guidance in the Program Framework is current except where noted in Section II of this notice. The significant information in the Program Framework is contained in Appendix A of this document or available on the Internet at OPS address http://ops.dot.gov.

(2) Interim Risk Management Program Standard: Describes the essential elements and characteristics of a company's risk management program. A Letter of Intent should include evidence that the company will address all considerations raised in the Program Standard. It is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(3) Guidance on Performance Measures: Provides the basis for participating companies and OPS to assess, through the demonstration projects, whether risk management is an effective alternative to the current regulatory environment; and to determine whether superior public safety and environmental protection is being achieved. OPS considers the performance measures proposed in the consultation process to be critical to approving a demonstration project. Companies may include proposed performance measures, if available, in their Letters of Intent. The March 1997 guidance is available by contacting Eben Wyman at (202)366–0918 or on Internet at http://opspm.volpe60.dot.gov.

(4) Risk Management Communications Plan: Outlines the processes to enable all stakeholders (including OPS, companies, States, and local officials) to exchange information about the goals, objectives, and status of the Demonstration Program and individual projects. The Communications Plan describes the information OPS intends to share with stakeholders via local prospectuses once candidate companies are selected for consultations. Companies may consult the Plan to ensure their Letters of Intent contain sufficient information for the prospectuses, and for guidance on local level communications the company should conduct. OPS will continue to develop communications with the public during the Demonstration Program. The Plan is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(5) Risk Management Training Curricula: Describes the content of the risk management training that will be provided to industry and regulator participants in the Demonstration Program. Companies who submit Letters of Intent and who OPS identifies as candidates for selection will be invited to participate in the training. The company may request an orientation with the OPS personnel who will be assigned to evaluate and monitor its demonstration project. An outline of the curricula is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(6) Proceedings from January 28, 1997 Public Meeting held at the Hilton Riverside Hotel, New Orleans, LA: Record of OPS response to public comment on elements of the Demonstration Program. Available by contacting Eben Wyman at (202)366–0918, or on Internet at OPS address http://ops.dot.gov. A summary of OPS comments at the public meeting is contained in Appendix B of this notice.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by E-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this document. Persons wishing to review previously submitted comments may contact the RSPA Dockets Clerk, (202) 366–5046, U.S. Department of Transportation, room 8421, 400 Seventh Street, SW, Washington, DC 20590. Inquiries should identify the docket number (PS–142). The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

SUPPLEMENTARY INFORMATION:

I. Overview

The Program Framework for Risk Management Demonstrations (Program Framework)(61 FR 58605), published on November 15, 1996, describes the Pipeline Risk Management Demonstration Program and its objectives and statutory basis, and provides guidance for pipeline operators who may wish to participate. The Demonstration Program will enable participating pipeline operators to substitute compliance with the provisions of an OPS-approved demonstration project for compliance with existing pipeline safety standards. The objective of the Demonstration Program is to test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve public safety, environmental protection, and reliability of service. It will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative.

Guidance for participation by companies, regulators, and the public in the Demonstration Program is contained in the documents referenced at the front of this notice. OPS expects documents (1) through (5) will be refined and improved as more is learned during the course of the Program. OPS will report at least annually on the Program's progress, via **Federal Register** notices, nationally broadcast two-way video teleconferences, mailed updates on the individual project prospectuses, and other means. By March 31, 2000, OPS will submit a Report to Congress on the Demonstration Program status. A final report will be issued in four years evaluating how effectively safety, environmental protection, and reliability of service have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

II. Modifications and Clarifications to Program Framework

The following modifications and clarifications to the Program Framework for Risk Management Demonstrations are in response to public comment to the docket, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through ''joint risk management quality teams'' (JRAQT).

1. Window for submission of Letters of Intent

Companies considering participating in a demonstration project must submit a Letter of Intent to OPS no later than July 25, 1997. This provides operators a 120-day window, rather than the previously published 60-day window.

2. Phased Selection of Demonstration Projects

OPS will likely select a few candidates for consultations before the 120-day window for submission of Letters of Intent has closed. This phased approach would allow OPS to better manage workload. OPS would base these selections on evidence in the Letter of Intent that the proposed demonstration project has a high likelihood of being approved per the criteria described in the Program Framework.

3. Screening Criteria

As part of the screening criteria, previously described in the Program Framework, OPS will favor companies with a demonstrated commitment to risk management and a demonstrated ability to communicate with OPS by, for example, being forthcoming with relevant data. OPS will favor proposed projects that:

- Are comprehensive, indicating a more systematic and thorough assessment of risk and risk control options so that superior protection can be achieved;
- Provide a good opportunity to evaluate risk management as a regulatory alternative; and
- Contain distinguishing features, such as support from or a pre-established relationship with local or stakeholders.

4. Informational Meetings with OPS

OPS is continuing its informational meetings at company sites to discuss demonstration project concepts, to explore the potential for more comprehensive project proposals, and to provide companies a better understanding of Program objectives, opportunities, and the administrative process and approach to application evaluation. In addition to assisting companies with questions about risk management, these meetings could position OPS to better plan the evaluation phase of the Demonstration Program.

5. Local Distribution Companies (LDC) are Not Eligible to Participate in the Current Demonstration Program

As stated in the Program Framework, eligibility for the current Demonstration Program is limited to interstate natural gas transmission and hazardous liquid pipeline companies. However, on February 26, 1997, the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas passed a Resolution supporting an LDC Risk Assessment Quality Action Team to conduct a feasibility study of risk management as a regulatory alternative.

6. Role of States in the Demonstration Program

In keeping with the statutory provision (49 US USC 60126(d)) that allows the Department to provide for State consultation in the Demonstration Program, OPS will contact State pipeline safety agencies that may be affected by a proposed demonstration project to discuss the extent of the State's involvement in the project. This could entail the State providing input on geographic, socioeconomic, and other local factors that the Project Review Team (PRT) should consider during its consultation with an operator. It could also entail the State pipeline safety agency acting as a conduit for other State agencies wishing to provide input to the PRT. The State could serve, along with OPS and the company, as a point-of-contact for members of the public providing comments and raising questions. Should the State pipeline safety agency choose not to participate in the Demonstration Program, OPS will find alternative means of ensuring that the PRT considers input from other State agencies and the public.

7. Meaning of ''Clear & Established Safety Record'' in Presidential Directive

A Presidential directive to the Secretary of Transportation directs the Secretary to limit risk management demonstration projects to those pipeline operators that have clear and established records of compliance with respect to safety and environmental protection. OPS will review its records to determine if candidate companies have historically met requirements of applicable State pipeline safety regulations. Operators should have addressed all safety and environmental protection actions prescribed by existing regulations and orders, including consent orders and commitments for corrective action made to OPS. OPS will consult with other agencies about their knowledge of the company's safety and environmental compliance record. A company may include in its Letter of Intent a statement identifying the relationship of any ongoing prescribed actions to the proposed demonstration project.

8. Role of Other Agencies

At the annual National Response Team (NRT) Regional Response Team (RRT) Co-chairs' meeting in February, 1997, OPS invited the 15 State NRT agencies to participate in the Demonstration Program. Once OPS announces the candidate demonstration sites, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via periodic program briefings, project prospectuses, and updates. At the State level, State pipeline safety agencies participating in the Demonstration Program may act as

points-of-contact for other State agencies (including State environmental agencies).

10. Clarification of Term ''Stakeholder''

OPS uses the term stakeholder in reference to parties at the National, State, and local levels that have interest in the Pipeline Risk Management Demonstration Program.

11. Error in Citing Part 192 as Source of Reporting Requirements for Gas Operators

OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 191 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations. The Program Framework erroneously cited Part 192 as the source for reporting requirements for gas operators.

12. Clarify Role of Local Public Officials

The Program Framework was unclear about why OPS asks that participating companies establish a dialogue with local officials in proximity to their demonstration projects. The expected benefits of local public involvement include:

- Providing information about specific local conditions that may not be known at the Federal or State level;
- Ensuring that government agencies have considered all relevant factors in making decisions to approve projects; and
- Providing local feedback as to whether the Program is accomplishing the goals for which it was designed.

To broaden opportunities for public involvement, other planned outreach opportunities include an Internet homepage with each project's status and national two-way video teleconferences available via Internet.

OPS is seeking a diverse set of demonstration projects, and encourages all interested interstate natural gas transmission and hazardous liquid pipeline operators to submit Letters of Intent for consideration.

Issued in Washington, DC on March 24, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix A—Excerpt from the Program Framework for Risk Management Demonstrations (61 FR 58606)

SUPPLEMENTAL INFORMATION:

I. Overview

Section 5 of the Accountable Pipeline Safety and Partnership Act of 1996 (Pub.L.No.104–304, Oct. 12, 1996) requires OPS to establish the Pipeline Risk Management Demonstration Program and sets forth requirements for carrying out risk management projects. In a memorandum issued when the statute was enacted, the President directed the Secretary of Transportation to use his discretion to administer the Demonstration Program with certain safeguards in place. The safeguards identified in the President's memorandum to the Secretary include making provisions for:

- Accepting projects that can achieve superior public safety and environmental protection.
- Enabling full and meaningful participation by affected communities and constituencies in risk management project approval.
- Using orders ensuring that the requirements of risk management projects are subject to full enforcement authority.
- Limiting the number of demonstration projects to ten (10).
- Limiting participation to operators with clear and established records of compliance with respect to safety and environmental protection.

The statutory requirements, the President's memorandum to the Secretary, comments on previous framework concepts (published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995), and other stakeholder input were used to develop the present framework, which provides guidance to operators who may decide to participate in the demonstration projects that are expected to begin in 1997.

Risk management can provide pipeline owners and operators greater flexibility in their choice of safety-related activities than is possible within OPS's present universally applicable regulatory program. Risk management enables a company to customize its safety program to address its pipeline's particular risks. Furthermore, risk management is a dynamic process, with built-in features for evaluating and improving safety activities as experience is gained.

The demonstration projects will test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve safety, environmental protection, and reliability. They will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative. The new standards, technologies, and communication processes developed by operators and OPS for the risk management demonstration projects will be adapted to support the range of risk-based regulatory, compliance, and research and development activities OPS presently has under development.

OPS expects that risk management methods and the formalized process of interactions and negotiation between regulators and company personnel will result in superior public safety and environmental protection than could otherwise be attained through existing regulatory requirements. Risk management is, by OPS definition, a more systematic and thorough assessment of risk and risk control options, with the intended result of superior decision making. As a result of improved assessment, OPS believes there is a potential to identify more risk than may have been found using existing practices.

OPS plans to select companies for demonstration projects with a demonstrated commitment (1) to work in partnership to evaluate merits of risk management processes and technologies and (2) to develop risk management as an integral part of company day-to-day business practices, at least related to the demonstration project. The selection criteria favors projects showing potential for more comprehensive risk management applications. All participants will be focused on improving safety and environmental results, prioritizing resources more effectively, and enhancing the ability of government and industry to effect positive outcomes. OPS will have clear profiles of its assessment of pipeline integrity before and after the demonstration program. At the program conclusion, OPS fully expects to have a better understanding of individual pipeline risks and to be in a better position to evaluate risk control options.

Finally, OPS expects risk management to be able to provide better accountability for safety and environmental protection, and a better basis to communicate with the public. To assure that safety and environmental protection improve, OPS will measure local, project-specific data such as current physical data, new test data, comparison with similar segments, outcomes from risk control actions, precursor or ''anticipative'' event measures, level of risk awareness, history of service interruptions and incident data. OPS also expects to measure improvements in communications, understanding, and resulting increased ability of government and industry to effect desired safety and environmental project outcomes. OPS and operators

participating in the Demonstration Program will report to the public periodically during the four year period.

OPS will be accepting into the Demonstration Program those projects, as proposed or ultimately negotiated, that are expected to achieve superior public safety and environmental protection than is currently being achieved through regulatory compliance. Because of the nature of the risk management process, OPS believes that operators choosing to participate will be able to propose projects demonstrating such protection.

Each demonstration project is expected to have a four-year duration. Participation in risk management demonstrations will be voluntary and subject to OPS approval based on criteria set forth later in this notice. Eligibility for the demonstration projects beginning in 1997 is limited to interstate natural gas transmission and hazardous liquid pipeline companies. RSPA may later broaden eligibility to include distribution and other intrastate operators.

II. Activities Presently Underway and Next Steps

The December 20, 1995, **Federal Register** notice gave the background for OPS's consideration of company-specific risk management projects as an alternative to the existing regulations. The notice described many of the safety, environmental, legislative, technical, public perception, and economic factors driving government, corporate, and public interest in risk management.

Since December 1995, OPS has been working with ''joint risk management quality teams'' (JRAQT) composed of representatives of State pipeline regulatory agencies, the oil and gas industries, and local public safety and environmental representatives to develop the five primary components of the Pipeline Risk Management Demonstration Program. These components include the Interim Risk Management Program Standard, the guidance for assessing risk management as a regulatory alternative using general industry data, the training protocols for instructing government and corporate participants about their new roles under risk management, a plan for productive communication between all participants and the public, and the regulatory framework presented in this notice. The standard and the regulatory framework are now ready for public comment. The guidance for assessing risk management as a regulatory alternative will be ready for public comment in November.

The Interim Risk Management Program Standard will serve as a common ground upon which the pipeline industry can develop and refine effective risk management demonstration projects that regulators can approve and monitor. It defines certain elements that all programs should contain, but allows flexibility to each company to customize its project to fit its particular needs and corporate practices, and allows projects to evolve as experience is gained. The standard will also provide companies guidance for selecting performance measures to ensure that safety and environmental protection are safeguarded in demonstration projects. Directions for obtaining and commenting on the standard are at the front of this notice.

The regulatory framework component presented in this notice guides pipeline companies in how they can gain OPS approval of their risk management projects and describes how OPS would monitor the plans. The framework presented here will guide the demonstration projects that begin in 1997. The experience gained from the demonstration projects will help OPS to later develop a permanent procedure for approving risk management projects, if risk management proves to be a viable regulatory alternative. Directions for public comment on the regulatory framework are also at the front of this notice.

To help ensure that the Demonstration Program components provide the flexibility to fairly and consistently evaluate and support actual risk management projects, OPS has been conducting a series of meetings with individual operators since August 1996. The topics of discussion include risk management projects the operator has in place or under consideration and criteria OPS might use to evaluate them. During the meetings, operators also learn about and comment on the Demonstration Program components under development.

OPS has held two public meetings on risk management demonstration projects and will hold a third on Tuesday, January 28, 1997, in New Orleans, Louisiana. At that meeting, OPS and the JRAQT will present the Interim Risk Management Program Standard that operators will use during the demonstration projects. OPS will also present prototype risk management projects to illustrate the documentation needed and the types of issues to be addressed during project review, approval and monitoring. After the meeting, OPS will publish a **Federal Register** notice to begin the project approval process described in Section IV of this notice. Between now and the January meeting, OPS will continue to refine the Demonstration Program components based on public comment on this notice, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through the JRAQT teams.

III. Risk Management Demonstration Project Objectives and Policies

The objectives of the Pipeline Risk Management Demonstration Program, which stem from the statutory requirements and the Presidential directive, are to accomplish the following:

- To show that more effective allocation of resources can result in improved safety and environmental protection over what is presently achieved through regulatory compliance.
- To address risks not addressed by regulations by capitalizing on features inherent to the risk management process, such as improved quality and integration of safety data and, as a result, more comprehensive assessment of threats.
- To systematically test risk management as a regulatory alternative through objective evaluation under a broad range of conditions.
- To establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process.
- To develop and apply new risk assessment models, processes and technologies.

OPS believes that the following elements need to be structured into the Demonstration Program:

(1) Operators participating in the Pipeline Risk Management Demonstration Program will need to provide sufficient data and background information to enable OPS to determine whether risk management is an effective regulatory alternative that provides superior safety and environmental protection.

Implicit in a company's participation in the Demonstration Program should be the commitment to work in partnership with OPS to determine whether and how risk management might become a permanent feature of the Federal pipeline safety program. OPS will ask for evidence that risk management, as it relates to the proposed demonstration project, is or will be developed and implemented as an integral part of the day-to-day business practices of the company. OPS will also periodically ask

companies for suggested refinements to the primary program components.

In keeping with the Interim Risk Management Program Standard, the operator must identify project-specific performance measures that demonstrate the effectiveness of the risk-control decisions being made. During the project approval process, OPS will determine whether these local project-specific performance measures appear appropriate and adequate. Throughout a demonstration project, the operator will evaluate local and broader program measures and ensure that the performance measures are appropriate and adequate. The operator would periodically report on these project-specific performance measurements to OPS.

OPS is developing guidance for additional more general measures operators would report during the four-year demonstration period to enable OPS to determine the effectiveness of risk management as a regulatory alternative. These measures will help OPS answer the following questions:

- Does risk management result in a greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?
- Are resources being better prioritized and more effectively applied under risk management?
- Has agency and industry involvement in the discussion of risks and risk control options, and the agency and industry's ability to impact desired outcomes, increased under risk management?

(2) Operators will be allowed to reallocate resources geographically, as long as safety is adequately safeguarded at each location along a demonstration site

OPS will allow operators the flexibility in a risk management demonstration project to reallocate safety resources across several pipeline segments. An operator may substitute one or more activities for others, or do away with redundant activities altogether, as long as the basic safety and environmental protection along the pipeline is safeguarded at each point. However, it is still expected that the overall demonstration project performance will result in superior safety and environmental protection.

(3) OPS will consider approving demonstration projects of various scopes and complexities

The scope of a risk management demonstration project may be an entire pipeline system and all safety activities, or may be focused on parts of a system and specific activities.

Since operators have different levels of experience with, and confidence in, risk management, OPS expects some proposals to begin with approaches that are limited in scope. Therefore, an operator may propose a phased entry into a demonstration project, broadening the scope of the project as experience is gained. During the project approval process, OPS will favor projects showing a potential for expansion and more comprehensive application of risk management. OPS expects to work with companies to develop a profile which compares the demonstration site to the rest of the pipeline.

OPS recognizes that significant benefits can accrue from even the less sophisticated applications of risk management. Because no single risk management approach will be universally appropriate for every situation, OPS is looking for those that match the level of risk management with the complexity of the risks being managed. However, any operator who participates in the Demonstration Program must have in place the program elements defined in the Interim Risk Management Program Standard. The program elements provide the structure for the limited scope proposal.

When an operator proposes risk control alternatives to implement during a demonstration project, the operator should demonstrate a knowledge and understanding of the range of risks along the demonstration site and show that it has considered significant failure modes. An operator may draw on corporate experience, skills, and available documentation to support the proposed alternatives.

(4) OPS considers an operator's compliance with the provisions of an OPS-approved risk management project to be an equivalent and acceptable alternative to compliance with the regulations

OPS considers the provisions of an approved risk management project to be a regulatory commitment. The terms and conditions of the project will be incorporated into an order that is subject to enforcement authority. By this order, an operator conducting risk management activities in an approved project will be exempt from regulations corresponding to the stated scope of the project, but will be required to comply with the provisions of the project. An operator not complying with the provisions of its OPS-approved project will be subject to the same civil penalties administered under existing regulations.

OPS has the authority to exempt, by order, an owner or operator participating in a risk management demonstration project from all or a portion of the regulatory requirements, and from any new regulations, applying to the covered pipeline facility. OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 192 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations.

When the project concludes at the end of four years, or if it is terminated earlier, consideration will be given to installations or facility modifications made during the demonstration project that conflict with existing or future regulatory actions. Actions taken by the operator in good faith in an approved risk management project could be ''grandfathered'' and exempt from future regulatory compliance, provided safety and environmental protection are not compromised.

(5) The operator is responsible for active communication with State and local officials regarding risk management. OPS will ensure that such communication is part of the operator's demonstration project plan and that the communication is carried out.

OPS sees potential for risk management to provide better accountability to the public for safety and environmental programs. OPS is beginning to explore appropriate strategies for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. Similarly, OPS realizes the importance of training and other information exchange in supporting the institutional change that would occur under risk management.

Companies must establish appropriate dialogue with State and local public safety and environment officials. At a minimum, these public officials should be aware that a risk management demonstration project is underway on the pipeline, that OPS is monitoring the project, and who functions as a point-of-contact. Such a dialogue would enable local officials to reassure the public that an appropriate regulatory presence is in place and how the overall safety and environmental protection are enhanced by risk management. OPS will discuss external communications with the operator during a consultation prior to formal application.

IV. Process for Selecting Projects

OPS is providing the following as guidance for operators to seek approval of their risk management demonstration projects. OPS plans to formally solicit operators to voluntarily participate in the risk management demonstration projects via a **Federal Register** Notice in first quarter 1997. That notice will give target dates for the various steps described below.

(1) *Letter of Intent*

Operators would notify OPS of interest in participating in a demonstration project, and OPS would screen operators to ensure that only companies whose demonstration project concepts have a reasonable likelihood of being approved expend the resources to develop formal applications. OPS will screen Letters of Intent to identify no more than ten projects as candidates for selection in the Demonstration Program. Ten is the maximum number OPS can reasonably expect to evaluate and, if selected, to monitor. OPS would accept Letters of Intent during a 60-day window in early 1997. A Letter of Intent is an expression of a company's interest, but does not obligate a company to participate in a demonstration.

OPS would require that a demonstration project cover any part or all of a pipeline system that is covered by either 49 CFR Part 192 or 195, is under State oversight or oversight by a participating interstate agent, and is currently in operation or under conversion to service. Operators should commit to a project duration of at least four years, and provide evidence that they will address all considerations raised in the Interim Risk Management Program Standard. This includes providing a description of the means by which the company would communicate with local officials regarding its demonstration project.

OPS would like to choose operators who provide evidence of consistent corporate commitment to risk management. This could be demonstrated by a corporate officer, who controls the resource allocation for the demonstration project and competing operations, signing the Letter of Intent.

The Letter of Intent would include a general discussion of risk management principles as part of a company's operating philosophy. To provide OPS adequate data to choose a diverse set of demonstration projects, the Letter would provide a brief system profile of the pipeline, including product(s) transported, pipeline age and operating history, types of population distributions and geographic conditions in proximity of the pipeline, and any other features the operator thinks are notable. The Letter would also describe the scope of the project as defined per the Interim Risk Management Program Standard and any new technologies and processes to be developed or deployed during the demonstration phase.

In making its choice, OPS would consider those operators who have clear records of safety and environmental compliance, based on OPS records and consultation with other interested agencies. OPS will also limit selection to projects which would achieve superior safety and environmental protection. Operators should have completed any OPS-initiated corrective actions.

OPS will publish for public comment a **Federal Register** notice describing proposals of selected companies and the demonstration sites under consideration. OPS will also follow through with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed.

(2) *Consultation*

OPS would invite each operator submitting a promising Letter of Intent to a consultation within 60 days of receipt of the Letter of Intent. The purpose of the consultation would be to familiarize OPS and affected States with specific aspects of an operator's risk management project concept, to provide guidance to the operator on what refinements (if any) are needed for OPS to approve the concept as a demonstration project, to enable regulators to plan the expected level of monitoring based on the company's own audit process, and to enable regulators and the operator to agree on the roles and responsibilities of each throughout the project duration. OPS intends that the consultation begin a negotiation process that results in a demonstration project that OPS could approve.

OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them in the consultation process.

OPS would constitute a Project Review Team (PRT) to consult with the operator, keep abreast of any subsequent discussions, and provide technical input on whether a demonstration project could be approved. OPS would customize the make-up of each PRT to the company and project. The PRT members'' roles would be defined in OPS-developed protocols, designed to ensure rigorous yet fair and consistent treatment of all operators throughout plan negotiation, approval, and monitoring. The mix of States and OPS regional personnel on the PRTs, as well as any outside technical expertise consulted, would vary from project to project depending on the demonstration's technical focus and geographic location.

Some of the same OPS headquarters staff would be on all PRTs to ensure consistent application of policy throughout the project and to follow all issues raised during the consultations to their resolution.

The consultation would focus on the design, operations, and maintenance practices that would replace practices required by 49 CFR Part 192 or 195, and that would achieve superior overall safety and environmental protection. The operator would provide the rationale for these risk control alternatives by generally describing the specific risk management models, processes, and sources of data supporting their selection.

Other consultation discussion topics would include the program goals, the project scope defined per the Interim Risk Management Program Standard, the project-specific performance measures, the operator's auditing plan, a plan for OPS audits, proprietary issues, provisions for public communication, and the outline for a work plan including benchmarks, risk assessment processes, new technologies applied, points-of-disclosure, and mechanisms for monitoring and refinement.

(3) Formal Application and Approval

An operator would submit an application formally indicating its intent to enter into a risk management demonstration project. Consistent with the program standard's intent for an efficient information flow among appropriate stakeholders, a summary of this formal application would be published in the **Federal Register**, and the application itself would be made available for review and comment in the docket. OPS will again communicate with national public, environmental and other interested organizations about the sites in which we intend to approve demonstration projects so that local officials can be notified and informed.

The formal application, including a detailed work plan, would document operator/PRT resolution of issues raised during the consultation and any subsequent discussions. It would also provide assurance of a corporate commitment to implement the project in accordance with the operator's risk management application. Other issues may be included at the operator's

discretion, such as how to return to compliance with the regulations should a demonstration be terminated.

OPS would review the application and comments, and decide whether to approve the project. If OPS decides to approve the project, OPS would issue the operator a written order. The order, in addition to exempting an operator from the applicability of specified pipeline safety regulatory requirements for the period of the demonstration, would set forth the terms and conditions for the operator's participation in the demonstration project. The order would be enforceable.

(4) Implementation

A risk management project would start as soon as OPS approves the formal application and work plan, issues the order, and notifies the public through the **Federal Register** that the order is in effect. Regulators and operators would monitor risk management demonstration projects for compliance with the order. OPS would provide each participating operator with a plan describing the regulators' expected level of effort in monitoring the demonstration, including the type of audits, their frequency, the participants, the audit scope, and the operator's means of addressing those aspects of the demonstration site remaining in compliance with the regulations, but this plan would not limit OPS's statutory authority to inspect a pipeline facility during the period of the demonstration. Planned OPS audits would coincide with the operator's data taking at key decision points, such as when the operator evaluates the effectiveness of safety activities or considers modifying safety activities.

An operator would notify OPS of any intent to make substantive modifications to the risk management project once a demonstration is underway. The PRT may reconvene to renegotiate project approval or to resolve other significant issues. Provisions will be made for public review and comment on renegotiated projects.

OPS could, through appropriate administrative action, address any unsafe conditions that arise during the demonstration period to ensure that such conditions are quickly addressed. OPS would also administer civil penalties within the provisions of the existing regulations for operators not complying with the order.

(5) Termination

OPS intends that, where a risk management demonstration project is determined to have been successful, the operator could, in lieu of switching to compliance with the regulations, continue to exercise risk management on that part of the system that was covered by the demonstration. However, this determination could not be made until the end of the demonstration period. Upon conclusion of the project, or if it is terminated earlier, consideration would be given to installations or facility modifications made during the demonstration project that conflict with future regulatory actions.

OPS may consider terminating a demonstration project if:

(i) The operator requests termination due to changed circumstances;

(ii) The operator does not comply with the terms and conditions of the approved risk management project;

(iii) Safety has been compromised; or

(iv) OPS and the operator fail to agree on a substantive modification to a risk management project.

V. Summary of Means of Achieving Meaningful Public and Community Involvement

OPS is providing numerous opportunities for public participation in the design and implementation of the Pipeline Risk Management Demonstration Program. One of OPS's objectives for the demonstrations is to establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. OPS believes meaningful public input is essential if the demonstrations are to be successful.

The public was invited to comment on early regulatory framework concepts via **Federal Register** notices published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995. OPS is soliciting public comment on the latest framework concepts via this notice. In addition to the notices, OPS has held two public meetings in preparation for the demonstrations and has scheduled a third for January 28, 1997, in New Orleans, LA. The previous public meetings were held on November 7, 1995, in McLean, Virginia, and on April 14–15, 1996, in Houston, TX. At the third meeting, OPS plans to present the final framework and supporting documents, and to demonstrate the review and approval process using prototype risk management projects.

This notice directs interested members of the public to the docket, to the American Petroleum Institute (API), or to a website to obtain and comment on the latest draft of the Interim Risk Management Program Standard. The standard describes the elements that OPS, its State partners, and industry agree must be common to all demonstration projects. One requirement is an external communications element, in which regulator and other stakeholder interests and concerns are understood, and program goals and results are communicated to and discussed with the public, as well as Federal, State, and local regulators, and other stakeholders as appropriate. The docket associated with this notice will have available for review any comments received on the standard and on the regulatory framework.

This notice also describes the numerous opportunities OPS is offering the public for comment during the demonstration review and approval process. Before formal applications are due, OPS will publish for public comment a **Federal Register** notice describing the demonstration projects under consideration and each company's concept for communicating with local safety officials should OPS approve its demonstration project. The public will be noticed again once the formal application is received and approval is imminent. At this time, a summary of the formal application will be published in the **Federal Register**, and the application itself will be made available for review and comment through the docket. At each opportunity for notice in the **Federal Register**, OPS will communicate with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed about planned program activities.

Affected States will be a part of the Project Review Team (PRT) recommending whether or not OPS should approve a demonstration project. OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them with the PRT.

OPS and industry's communications effort focusing on public and environmental officials and other interested organization representatives is intended to provide these officials with adequate information to reassure the public that an appropriate regulatory presence is in place during the demonstrations, and to describe how safety and environmental protection will be enhanced by risk management. OPS would appreciate comments on whether these mechanisms are adequate to ensure public and community involvement, and if not, what OPS and operators choosing to participate in the

demonstration projects can do to achieve such involvement.

VI. Report to Congress

By March 31, 2000, OPS will submit a Report to Congress on the results of the demonstration projects, evaluating how effectively safety, environmental protection, and reliability have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

Appendix B—The Pipeline Risk Management Demonstration Program Public Meeting, January 28, 1997, New Orleans, Louisiana

Note: The complete transcript of this Public Meeting is available on the Internet at: http://ops.dot.gov

1. Background and Objectives

Moving into Implementation

Over the last few years, the Office of Pipeline Safety (OPS) has been investigating the use of risk management as a regulatory alternative that would produce superior performance in more cost-effective ways. Over this time, OPS has worked in partnership with the pipeline industry and State regulators through a series of Risk Assessment Quality Teams (RAQTs) and has discussed progress and concerns at a series of meetings and conferences, including a Pipeline Safety Summit in 1994, and Risk Management Conferences in 1995 and 1996.

The initial RAQTs, which investigated the feasibility of using risk management within the pipeline industry, concluded that risk management had the potential to provide significant benefits by improving safety, environmental protection, reliability, and cost-effective operation. However, these Teams noted a variety of technical and regulatory issues that still needed to be resolved, and recommended that a demonstration program be planned and implemented to test the viability of risk management as a regulatory alternative.

The first Risk Management Conference, held in McLean, Virginia, in November 1995, identified the most important of these issues. A major conclusion from this first Risk Management Conference was that a set of ''building blocks'' needed to be developed to provide an adequate foundation upon which a viable and responsible Risk Management Demonstration Program could be constructed. After this conference, partnerships representing OPS, States, localities, industry and the public were formed to design and construct the following building blocks:

- The Risk Management Program Framework that defines how OPS receives, reviews, approves, and monitors operators risk management demonstration projects;
- The Risk Management Program Standard that defines the essential elements and characteristics of an operator's risk management program;
- Guidance on Performance Measures that supports the ability of operators and OPS to monitor performance, ensure that superior performance is being achieved, and evaluate the results of the Risk Management Demonstration Program;
- A Communications Plan that describes how information about the demonstration projects will be provided to local safety officials and other interested parties, and how information from these parties will be input to the demonstration process;
- A Training Plan that defines how OPS, States, and industry will be trained in the risk management building blocks.

Work commenced on these building blocks in early 1996. A second Risk Management Conference was held in Houston, Texas in April, 1996 to review progress and to hear input, concerns, and suggestions about the building blocks.

A draft version of the Program Framework was developed by OPS and published in the **Federal Register** on November 15, 1996, followed by a 60-day public comment period.

A draft Program Standard was developed by the Program Standard Quality Team and referenced in the **Federal Register** notice. Comments were received, and incorporated into an Interim Program Standard in early January, 1997.

A draft Performance Measures Guidance was produced by the Performance Measures Working Group, and distributed for comment in December, 1996.

A draft Communications Plan was produced by OPS and the JRAQT Coordination Team and distributed for comment in early January, 1997.

A draft Training Plan was produced by OPS and distributed for comment in early January, 1997.

The Accountable Pipeline Safety and Partnership Act of 1996 was passed by Congress and signed into law by President Clinton on October 12, 1996. This Act required the Secretary of Transportation to ''establish risk management demonstration projects—A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management, and B) to evaluate the safety and cost-effectiveness of the program.'' President Clinton provided additional direction to the Secretary through a Memorandum that directed the Secretary to implement administrative safeguards for carrying out the law that will enhance accountability and protection of public safety and the environment.

Meeting Purpose

This Public Meeting was designed to allow OPS to: 1) Present to the public the basic risk management demonstration program building blocks, 2) Describe and illustrate, with simple examples, how the review and approval process is envisioned to work, and 3) Obtain input from all interested parties concerning the building blocks or any other aspect of the Risk Management Demonstration Program.

Each of the draft building block documents, the Act of 1996, the President's Directive, and other relevant documents were provided as handout to each person attending the meeting and distributed to all State pipeline safety agencies.

[OPS received input from this Meeting, revised the draft building blocks as necessary, and published a final Program Framework in the **Federal Register** in March 1997, inviting companies to submit Letters of Intent for risk management demonstration projects.]

2. Conference Synopsis

This section provides a brief summary of each of the major sessions on the Meeting agenda.

Welcome and Introduction

Richard Felder—Associate Administrator for Pipeline Safety

Mr. Felder opened the conference by welcoming everyone. He noted that OPS and its State and industry partners started out over two years ago with the realization that there may be a better way of approaching pipeline safety regulation, an approach that is not event-driven and that does not result in specification-based regulation. OPS is looking for a better approach that will give superior safety through customization, flexibility, collaboration, and innovation.

Mr. Felder read a letter from Mr. Bruce Ellsworth, a Public Service Commissioner in New Hampshire and

Chairman of the National Association of Regulatory Utility Commissioners, to illustrate changes in perception from the first risk management meetings until now. Mr. Ellsworth noted that he was originally skeptical about replacing the existing safety regulations with risk management. He believes that the Natural Gas Pipeline Safety Act of 1968 has led to an outstanding safety record, and was reluctant to fix something that was not broken. However, as a result of his participation on the Joint Risk Assessment Policy Steering Team, he has seen that there may be an opportunity to make the system work better, cheaper, and more effectively. Mr Ellsworth's letter stated that he believed OPS has been right in exploring the viability of risk management as a regulatory alternative, and communicated his support for the pilot demonstration program.

Mr. Felder then delineated the basic building blocks of the Demonstration Program and emphasized the new awareness and resolve on the part of OPS to address the issues of public involvement.

RSPA Perspectives

Kelley Coyner, Research and Special Programs Administration

Ms. Coyner's discussion focused on the two twins of ''opportunity'' and ''responsibility'' that risk management presents. Risk management provides a tremendous opportunity, but only if we take the responsibility to do it right very seriously. She said that the pipeline risk management initiative was consistent and supportive of President Clinton's vision of a government that is humble enough not to solve all of our problems, but strong enough to give us the tools to solve our problems ourselves.

Ms. Coyner described the opportunities that risk management provides to comprehensively analyze risks, prioritize resources, and track performance; to be smarter and more accountable. She spoke of the responsibilities of continuing the partnerships that got us to this point, to continuously improve as we move forward, and to set clear and ambitious performance goals.

A major theme of Ms. Coyner's talk was the need for communication and public involvement. Improving public involvement has been a program goal from the beginning. She asked members of the audience to take seriously the challenge to make sure that OPS and its partners are off to a good start and going in the right direction by providing their comments in this public meeting.

Risk Management Building Blocks Panel

Program Framework

Stacey Gerard, Office of Pipeline Safety

Program Standard

Denise Hamsher, Lakehead Pipe Line

Performance Measures Guidance

Ivan Huntoon, Office of Pipeline Safety, Don Stursma, Iowa Commerce Department

Communications Plan

Stacey Gerard, Office of Pipeline Safety

Training Outline

Richard Sanders, Transportation Safety Institute

Program Framework

Ms. Gerard discussed the Program Framework, which describes the processes by which OPS will receive, review, approve, audit, and communicate information about operator risk management demonstration projects. She described the contents of the draft Program Framework (published in the **Federal Register**) and the comments received on this draft. Ms. Gerard also discussed the Accountable Pipeline Safety and Partnership Act of 1996 and the President's Directive that accompanied the law. She noted that the President's Directive requires that risk management demonstration projects produce superior safety and environmental protection, and directed OPS to place more emphasis on meaningful public and community involvement.

Ms. Gerard outlined the basic steps in the regulatory process, including:

- The Letter of Intent (LOI), in which the company communicates its intention to develop and propose a risk management demonstration project;
- The Screening Process, in which OPS screens the LOI to select a set of potential projects that have the best chance of supporting the Demonstration Program goals;
- Pre-consultations, in which OPS staff meets with the selected operators to discuss their proposed project, clarify information in the LOI, and prepare the Project Review Team (PRT) for an efficient consultation with the operator;
- The Consultation Process, in which an PRT meets with the company, and through a series of discussions, information exchange, and interactions come to agreement on the scope and characteristics of an acceptable risk management demonstration project, leading to the submittal of an application by the operator;
- The Review and Approval Process, in which OPS reviews the operator's application, approves it if appropriate, and reflects the commitments and terms and conditions of the program in a DOT Order;
- The Audit Plan, developed by OPS, which will coincide with the company's Work Plan milestones and decision points, and which describes the specific processes and areas of OPS audits of the risk management demonstration project;
- The Implementation Phase, in which OPS and the operator monitor progress, and modify or terminate the project as necessary.

She noted that, based on comments to the FR Notice, the window of time for submitting LOIs will be extended to 90 or 120 days. She strongly encouraged capable companies to submit LOIs.

Ms. Gerard discussed the issue of the ''clear and established'' safety record required by the President in his Directive of all demonstration program participants. She noted that OPS wanted companies with a clear record of compliance to start the project, and OPS will work with companies to be sure there is a clear record.

Ms. Gerard also discussed the issue of ''superior performance''. The President's Directive states that: ''The Secretary [of Transportation] shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Ms. Gerard noted that, consistent with other aspects of the President's Directive, superior performance would be achieved through a combination of:

(a) Improved analytical and decision-making processes. Risk management programs consistent with the Program Standard would be expected to include a comprehensive examination of risks, improved allocation of resources, enhanced communications within the company, better interactions with the regulators, meaningful public involvement, and other features that would lead to superior performance.

(b) Selection of an integrated set of risk control activities that is expected to reduce risks to the public, workers, and the environment.

(c) Full accountability. Operators will be expected to identify project-specific performance measures and submit project work plans that explicitly define operator commitments. These commitments are reflected in Orders that delineate the terms and conditions under which the operator's risk management program is authorized, and which are subject to the full

enforcement authority of the United States.

She clarified the role of the States, stating that OPS is inviting the States to participate in the PRT process, but not mandating participation of the States.

Program Standard

Ms. Hamsher, Co-Chair of the Joint Risk Assessment Program Standard Team, described the basic objectives of the Program Standard, how it was developed, and its basic elements. She stated that the Program Standard describes the basic elements and characteristics of an operator's risk management program. The Program Standard describes the basic program and process elements, and the functional requirements of a risk management program, but does not specify exactly how these elements or functions should be performed, allowing operators to customize their specific programs and technical tools to their situation and needs. It is not an instruction manual, a substitute for training, or a tool box. The Program Standard can provide the starting point for the OPS review of proposed demonstration projects, but it is not intended as a checklist for review and approval of demonstration projects.

Ms. Hamsher discussed some of the risk management guiding principles that were developed by the JRAQT. One of the key guiding principles is that risk management is a management decision support process. It is not just a set of technical models, but a comprehensive program that is integrated with the overall operation of the company to produce better decisions leading to superior performance. Risk management supports responsible, prudent, and experienced managers, it does not replace them. She also noted a guiding principle that risk can be controlled and often reduced, but it cannot be totally eliminated. We all need to reinforce, and communicate this realization so that expectations for zero risk are not established. Another guiding principle that went into the development of the Standard was that risk management produces integrated information about safety and environmental protection. Risk management increases information and information flow, between the company, its regulators, and the public.

She noted that the JRAQT recognized that the technical models, tools, and processes associated with a risk management program necessarily include some subjective judgements, uncertain assumptions, and limited data. Accordingly, the Program Standard includes a Performance Monitoring element that includes the definition and monitoring of performance measures that are directly tied to validating the specific assumptions and input data of the operator's risk assessment model and process.

Ms. Hamsher concluded by discussing the future of the Program Standard. Progress on the demonstration projects will be monitored, and the Program Standard will be refined and improved over the next four years. However, because of the way the Program Standard was developed, laying out the basic elements without prescribing details, it is not expected that major modifications will be necessary over the demonstration period. It is expected that this Program Standard will eventually be transformed into an industry consensus standard.

Performance Measures Guidance

Mr. Huntoon, Regional Director for the OPS Central Region, and Don Stursma, from the Iowa Commerce Department, discussed the work of the Performance Measures Workgroup and the issues the group addressed in producing the draft Guidance on Performance Measures. The Performance Measures Workgroup was formed after a number of issues related to performance measures were identified by the JRAQT Program Standard Team.

The Workgroup concluded that there were two key areas where performance measures were important:

(1) In monitoring the specific results produced by individual company demonstration projects to ensure that the underlying assumptions and input data of the risk assessment and risk control models are valid, and that the approved projects are indeed resulting in superior performance as predicted.

(2) In assessing the overall success of the Risk Management Demonstration Program, providing input to the required OPS report to Congress, and other progress reports.

Key issues that the Workgroup addressed were the availability of data to support meaningful performance monitoring and the cost and sensitivity of data reporting.

The report produced by the Workgroup is intended to provide guidance for operators who are planning to participate in the risk management demonstration program. The guidance should assist operators in developing a performance monitoring process as described in the Program Standard, and provide OPS the information it needs to assess the overall effectiveness of risk management as a regulatory alternative.

The project-specific performance measures will be included as part of the operator's demonstration project application, and will depend upon the expected outcomes of the demonstration project, and the selected risk control activities. Mr. Huntoon delineated some of the criteria developed by the Workgroup for these project-specific performance measures.

In order to assess the overall benefit of risk management as a regulatory alternative, the Workgroup felt that program-wide performance measures were needed to allow individual companies and OPS to address the following questions:

(1) Safety and Reliability. Does risk management result in greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?

(2) Resource Effectiveness. Are resources being better prioritized and more effectively applied under risk management?

(3) Communication and Partnership. Have agency and industry involvement in the discussion of risks and risk control options, and the agency's and industry's ability to impact desired outcomes increased under risk management?

Mr. Stursma discussed each of these major areas in turn, describing the issues that the Workgroup discussed in the process of producing the Guidance on Performance Measures. He also gave a variety of practical, everyday examples of the different types of performance measures to illustrate the concepts.

He noted that the information gained from these program-wide performance measures will be used by OPS to prepare a report to Congress on the results of the Risk Management Demonstration Program. The report will address each individual project and provide an overall recommendation on the application of risk management as a regulatory alternative. It was recommended that a successor group to the Performance Measures Workgroup be formed, which would prepare annual, interim progress reports. It is expected that OPS, the successor group to the Performance Measures Workgroup, and operators participating in the demonstration program will jointly prepare the interim annual progress reports.

Communication Plan

Ms. Gerard described the evolution of the Communications Plan and its basic elements. She reiterated the importance of meaningful public involvement to the

success of the risk management program, and summarized the numerous mechanisms planned for communication and involvement. In response to concerns expressed by some that the public would only be informed too late in the game to have any meaningful impact, Ms. Gerard pointed out that OPS will, right at the beginning of the review and approval process, summarize the Letters of Intent from companies selected to provide risk management project applications. In addition to publication in the **Federal Register**, project summaries will be distributed to local safety officials, and feedback loops will be established to obtain input from interested parties, at the very beginning of the consultation process. Information that comes in will feed into the pre-consultation and consultation process.

Each project summary, referred to as a prospectus, will describe to local officials the objectives of each project, the safety alternatives being discussed, and the company's approach to communications with the public. The prospectus will define at least three points of contact for anyone wishing to provide information or comment. One point of contact will be from OPS Headquarters, one will be at the State level (if the State agrees), and one from the operating company. As new or additional information is developed during the consultation process, the prospectus will be updated to keep people posted on events throughout the process.

At the time of the formal application from the company, the company's application will be made available in the docket, and a summary will be published in the **Federal Register**. When the application is approved and an Order is issued, OPS will issue another **Federal Register** Notice.

Ms. Gerard stated that the aggressive OPS communications effort under risk management is a much larger commitment that they have ever made before because they understand how important meaningful public involvement is to the success of the program.

Training Outline

Mr. Sanders, from the Transportation Safety Institute, summarized the training program that OPS is developing to support the risk management demonstration program. OPS is committed to joint government/industry training to ensure that all parties have a mutual understanding of the program, and speak the same language (or can at least accurately interpret each other's language) to facilitate the consultation process, and ensure high quality, comprehensive risk management programs result that produce superior performance.

Mr. Sanders outlined the currently envisioned training program, which is designed to support the Project Review Team, OPS, and the company during the project review and approval process. The program includes:

- An Overview of the Risk Management Demonstration Program.
- The Demonstration Process and Building Blocks.
- The Risk Management Program and Process Elements.
- OPS Auditing of an Approved Risk Management Demonstration Project.
- Prototypical Examples to Illustrate the Demonstration Process.

The training program will be developed in a modular format, so that orientations and training courses can be customized to the specific audience, its level of experience, and its specific training needs. The first two blocks of the training listed above, and selected portions of the other blocks, can be provided as an orientation or ''headstart'' program to those that have not been actively involved in the program development phase, or who wish to establish a common starting point.

The Risk Management Program and Process Elements portion of the training is based on the Program Standard building block produced by the JRAQT, and will provide overview descriptions of various types of risk assessment and prioritization models and processes.

Mr. Sanders asked for review of the training material, and input about training needs, including the usefulness of video, computer-based training, or Internet interactive training.

Prototypes

Moderator: Mike Neuhard, Fairfax County Fire Department

Panelists: Bruce Hansen, Office of Pipeline Safety, Andy Drake, PanEnergy Corporation, Beth Callsen, Office of Pipeline Safety, Gary Zimmerman, Shell Pipeline

Two examples of possible regulatory alternatives, one from the natural gas industry and one from the hazardous liquid industry were discussed to illustrate the demonstration process described in the Program Framework and discussed in the Building Blocks Panel. The examples were simplified versions of what would be expected in a real demonstration project, designed to illustrate the interactive process between OPS and the company, and were not presented as practical examples of comprehensive risk management programs or to illustrate the critical public involvement aspects of the process.

The topics addressed by each of the prototypes included:

- The information expected in the Letter of Intent.
- The characteristics of the proposed demonstration project that OPS would look for in screening Letters of Intent.
- The topics that would be discussed at pre-consultation sessions between OPS staff and the operator.
- The discussions between the PRT and the company concerning the risk-based justification for the proposed safety alternatives.
- The performance measures necessary to validate assumptions of the risk models and to confirm that superior performance was being produced.

Audience Questions and Comments

Questions and comments from the audience were received by speakers and panelists at a few different points in the meeting. Some of the major areas of questions and comments are summarized below. A full, verbatim set of all questions, comments, and OPS responses is available in the meeting transcript.

- *The liability of companies under risk management demonstration projects for compliance with the existing Federal or State regulations.*

Mr. Felder stated that a company that implements an OPS-approved demonstration project is committed to abiding under the terms of their approved application, as reflected in the associated OPS Order. Participation in a demonstration project is not an exemption from the minimum Federal pipeline safety standards as a whole. The underlying regulations that would otherwise apply would not apply to the segment of the pipeline within the demonstration project; the approved project and corresponding Order would apply. There should be no problem from the public's perspective if the company is in compliance with the provisions of its demonstration project as opposed to being in compliance with the underlying regulations; compliance with provisions of the project is equivalent to compliance with the pipeline safety regulations. The up-front review and approval process assures at the outset that the demonstration project will result in a superior level of safety compared to what you would have under the minimum State standards.

- *The quality of the data to support risk management.*

Mr. Felder noted that some of the audience comments reflected the

situation at OPS in years past, but did not reflect the many efforts over the past few years that OPS has taken in increasing partnership with industry, States, and the public to identify new regulatory pathways, to get the type of information needed to regulate effectively. He also noted that considerable work has gone into ensuring that the risk management process will significantly improve the amount and quality of data that will be available to OPS. The past is not a good indicator of where OPS is going in the future as far as risk information and data is concerned.

- *The level and type of communication with the public, and OPS's role in this process.*

Mr. Felder and Ms. Gerard reiterated the importance placed on communication by OPS, and the need to engage in an unprecedented outreach effort from OPS, but also noted the joint responsibility for communication among OPS, industry, local safety officials, and the public. Government cannot, and should not, do everything. Mr. Felder said that it was important to understand that the people who run the companies are also citizens of the country. They have a great stake in the outcome of the work they do, and a great stake in the communities that they affect. That is why OPS is enlisting their resources as part of the public outreach process. He further noted that OPS is working with national organizations because they have people and resources in every community in America, and this can leverage OPS efforts in getting down to the local community level. He stated that we need a communication partnership among Federal regulators, the States, national organizations, local officials, and the public.

Mr. Felder also pointed out that the situation with a risk management demonstration project is not analogous to the siting of new pipeline, where a company may be introducing a new risk into a community that did not exist before. Risk management demonstration projects will only be allowed by OPS where the company can demonstrate that superior performance can be achieved. The communications and due-process needs and mechanisms are accordingly different than that associated with a new right-of-way or zoning change hearing where new and additional risks are being introduced.

Ms. Hamsher pointed out that, in addition to the OPS Communication Plan, the Program Standard contained explicit requirements for the company to develop a two-way communications effort, ensuring that public information will be input to the risk assessment and risk control processes.

- *Public access to the Letters of Intent.*

Mr. Felder stated that the Letters of Intent, as well as the formal company application will be available in the docket for public examination.

- *The interactive nature of the screening process.*

Mr. Felder and Ms. Gerard stated that the screening process may require information meetings and interactions with the companies to clarify points in the Letters of Intent or to gather additional information needed by OPS. However, any interactions, consultations, or discussions with the company or States does not change the ultimate responsibility for public safety, which sits in the hands of the OPS regulators.

- *The relationship between the OPS program and other regulators such as EPA.*

Mr. Felder noted that OPS has had close collaboration with Mineral Management Service and works closely with the Coast Guard, a part of DOT. OPS is interested in putting together a larger network of agencies to share experiences about risk management and other alternative approaches to regulation. OPS has already performed a study that looked at over a dozen other State agency programs in risk management, defining and incorporating lessons learned from these programs into the pipeline risk management program. OPS has began meeting with EPA and will continue to consult with the EPA on issues of mutual interest.

[Subsequent to the public meeting, OPS briefed the 15 State National Response Team (NRT) agencies and invited them to participate in the Demonstration Program. As part of the screening and selection process, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via annual program briefings, project prospectuses, and updates.]

- *Limitations on the number of demonstration projects.*

Mr. Felder stated that OPS is restricted by Presidential directive to ten demonstration projects, involving interstate pipelines. No demonstration projects are planned for the local distribution companies at this time. In addition, OPS will be undertaking a variety of other initiatives related to regulatory reform and risk-based regulation beyond the demonstration projects themselves. OPS is committed to ensuring a high quality demonstration program that protects and improves safety and the environment, understands the significant resources required to support this program, and will not take on any more projects than it can responsibly and prudently handle.

Summary and Closing

John Riordan, Interstate Natural Gas Association of America (INGAA) Pipeline Safety Task Force, Joe Martinelli, API General Committee on Pipelines, Rich Felder, Office of Pipeline Safety

Mr. Riordan, from MidCon and the spokesman for INGAA, discussed how the Board of INGAA, which is represented by the Chief Executive Officers of the major pipelines in the United States, Mexico, and Canada became interested in risk management as a means to improve safety. He noted that society and the marketplace are demanding increased accountability from industry and the people that regulate the industry, and INGAA believes that the risk management demonstration program is very important in this regard. He emphasized the importance of communications, and the need to continuously improve in a changing world.

Mr. Martinelli, past President of Chevron Pipeline and Chairman of the General Committee on Pipeline for API, recounted the history of how industry, OPS, and other interested parties got to this point on risk management. He applauded the tremendous amount of work done by a large number of people in government and industry and the public. He noted that a key recognition four years ago was ''one size fits all'' regulation was not in the best interests of anybody, and a fundamental change was needed. Mr. Martinelli discussed the difficulty of change, whether in a person, a company, or an entire industry, and challenged all parties to not be fearful of change. He warned people not to get caught up in the ''30-year'' syndrome or the ''not invented here'' syndrome that resists change. He also talked about the recognition that government and industry had to be more collaborative than adversarial. Mr. Martinelli also noted that we were not

at the end of a journey with the development of the risk management building blocks, but just at the beginning of the journey, and the journey will be a long and hard one that requires significant continued effort from all parties. A key message was: ''Get comfortable with change'' and he provided a rule of thumb called the Rule of Three Positives. ''When somebody suggests a change to you, don't say: 'No, that won't work. That's not the way I do it.' When somebody suggests something new, stop and think and make three positive comments about the new idea before you make one negative comment.'' He challenged the companies to be innovative, creative, and provide OPS with so many quality demonstration proposals that their selection process will be difficult.

Mr. Felder closed the conference by expressing appreciation to all those that attended and to all of his staff that made the public meeting possible. He and Stacey Gerard then handed out DOT certificates of appreciation to individuals outside the government, in industry, the public, and contractors, that have worked with the various Risk Assessment Quality Teams.

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BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of National Customs Automation Program Test of Account-Based Declaration Prototype

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs' plan to conduct an account-based declaration prototype (NCAP/P) under the National Customs Automation Program (NCAP), and invites eligible importers to participate. The NCAP/P will be initially applicable to merchandise imported by truck through the ports of Laredo, Texas (Colombia Bridge only), and Detroit and Port Huron, Michigan. This notice provides a description of the test, outlines the development and evaluation methodology to be used in the test, sets forth the eligibility requirements for participation in the test and invites public comment on any aspect of the planned test.

DATES: The account-based declaration prototype (NCAP/P) will commence no earlier than August, 1997 and will run for approximately eighteen months, with evaluations of the prototype occurring periodically. All applications to participate in the test must be received on or before April 25, 1997. Public comments on any aspect of the planned test must be received on or before April 25, 1997.

ADDRESSES: Applications should be addressed to Ms. Margaret Fearon at U.S. Customs Service, 1301 Constitution Avenue, NW, Room 4139, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding eligibility of specific importers: Margaret Fearon, Process Analysis and Requirements Team, at (202)927–1413. For questions on reconciliation: Shari McCann, Process Analysis and Requirements Team, at (202)927–1106. For questions on other aspects of the Account-Based Declaration Prototype: Daniel Buchanan, Process Analysis and Requirements Team, at (617)565–6236.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (the Mod Act). Subtitle B of title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411–1414), which define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for remote location filing (section 414). Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), concerns the testing of NCAP components. See, T.D. 95–21 (60 FR 14211, March 16, 1995).

A key element of Customs efforts to re-engineer its Trade Compliance process is a shift in emphasis from the traditional transaction-based approach of ensuring compliance with import laws and regulations to an account-based approach, which addresses an importer's overall compliance through account management, process reviews, and audits. One feature of this approach is a new account-based declaration process. Customs is also developing a new commercial processing system, the Automated Commercial Environment (ACE), which will be designed to support the new Trade Compliance processes. An account-based declaration prototype (NCAP/P) is being developed to provide the first operational demonstration of ACE capabilities for processing imports, integrating the new account-based import declaration process with other aspects of the Trade Compliance process and with selected features of NCAP elements of the Mod Act.

I. Development Methodology

NCAP/P will be monitored by a Joint Prototype Team consisting of trade participants, the Customs Offices of Field Operations and Strategic Trade, the ACE Development Team, and other interested government agencies. This team will meet regularly throughout the prototype period in Detroit, Laredo and Washington, DC, to set development milestones, monitor progress, resolve issues and evaluate program effectiveness. The development effort will be coordinated with other on-going NCAP prototype programs such as Remote Location Filing and Reconciliation, and will be as consistent as possible with the overall direction of ACE development.

Potential participants should recognize that this is a prototype test of new processes. Data definitions and values and formats for electronic transmission of manifest, entry and commercial data will differ from those currently used in the Automated Commercial System (ACS). It is also important to note that development efforts undertaken for NCAP/P may not meet the eventual requirements for programs as they are finally implemented in ACE.

The public is invited to comment on any aspect of the NCAP/P test as described by this notice.

II. Eligibility Requirements

In order to be eligible for participation in the NCAP/P, an importer must:

1. Be designated as one of the top 350 U.S. importers in terms of entered value, while importing no less than 50% of their merchandise specified as Customs' Primary Focus Industries, which are as follows:

(a) Advanced Displays
(b) Agriculture
(c) Auto/Truck Parts
(d) Automobiles
(e) Bearings
(f) Circuit Boards
(g) Fasteners
(h) Footwear
(i) Manufacturing Equipment
(j) Steel Products
(k) Telecommunications
(l) Textiles and Flatgoods
(m) Wearing Apparel

Importers who are originally selected to participate will be eligible to continue to participate throughout the prototype period, regardless of their subsequent eligibility in regard to this requirement.

2. Be scheduled for, participating in, or, in the application, agree to undergo and cooperate fully with a Customs Compliance Assessment;

3. For Southern border NCAP/P shipments, use carriers who participate in the Land Border Carrier Initiative Program (LBCIP). No importer may enter Southern border cargo transported by non-participant carriers;

4. Agree in the application to file or maintain a continuous bond which will be obligated upon release of each NCAP/P shipment;

5. Be capable and/or agree to arrange for timely and accurate electronic transmission to Customs of all data required in the NCAP/P declaration process, including manifest and pre-release shipment data, additional data required to support physical examinations of cargo, entry summary data, detailed commercial data when requested, and reconciliation data. If an importer does not transmit electronic data for a particular shipment, Customs may exclude that shipment from NCAP/P processing. Participants who are unable to reliably provide timely transmission of required data may be suspended from further participation in this prototype; and

6. Be capable and/or agree to arrange for electronic payment of duties, taxes and fees. Participants who are unable to reliably provide timely transmission of required payments may be suspended from further participation in this prototype.

For NCAP/P, the following restrictions will be placed upon importers:

1. Importers must enter merchandise identified in the application as being from their typical commodities in their established lines of business and coming from pre-identified sellers and shippers;

2. Importers must enter only the merchandise identified in the application as being within a range of pre-identified commodities (classified at the 6-digit HTS level);

3. Importers must enter merchandise conveyed on trucks operated by carriers pre-identified by participants in the application; and

4. Importers must enter merchandise for release into the commerce under a consumption entry at the port of arrival.

5. Importers must enter merchandise at the port of Laredo, Texas (Colombia Bridge only), or at Detroit or Port Huron, Michigan;

Importers may not enter merchandise in the NCAP/P if it is subject to antidumping or countervailing duty, quota, trade preference level or visa requirements, or pre-release reporting requirements imposed by other federal agencies. No prohibited or embargoed merchandise will be permitted in prototype shipments. In addition, importers may not enter NCAP/P merchandise into a warehouse or Foreign Trade Zone, or as an in-bond entry.

Importers are responsible for ensuring that ineligible merchandise is not included in NCAP/P shipments, and that all shipments aboard a conveyance are eligible for NCAP/P processing. Customs will exclude ineligible shipments from NCAP/P processing. Customs will monitor participating importers' compliance with these restrictions; participants who are unable to maintain a high level of compliance may be suspended from further NCAP/P participation.

III. Application

Importers who wish to participate in NCAP/P must submit a written application including the following information:

1. Importer name;

2. Names and addresses of all their shippers for NCAP/P;

3. Names and addresses of all their seller/vendors for NCAP/P, and, for each seller/vendor identified, a listing of all the 6-digit HTS numbers in which the commodities to be imported are classified;

4. The issuer and number of the continuous surety bond which will cover all cargo processed under NCAP/P procedures;

5. Names and addresses of truck carriers who will be transporting NCAP/P shipments across the international borders;

6. Names and addresses of any customs brokers who will be filing declaration data;

7. The approximate total number of entries per month expected to be processed at each of the following locations: Colombia Bridge, Laredo; Ambassador Bridge, Detroit; Windsor Tunnel, Detroit; Blue Water Bridge, Port Huron;

8. Description of anticipated issues (from the eligible issues listed in Section VI of this Notice) and commodities for which the participant anticipates electing reconciliation;

9. For applicants not already scheduled for or participating in a Customs Compliance Assessment, a statement in which the applicant indicates agreement to undergo and cooperate fully with a Customs Compliance Assessment.

Customs will make admissibility determinations on NCAP/P shipments based on any cargo examinations and the information supplied with the application, which shall serve as a pre-filed entry for NCAP/P purposes.

Any importers who have applied to become NCAP/P participants will be notified in writing of their acceptance or rejection. If an importer's application for NCAP/P participation is accepted, Customs will assign the importer an NCAP/P Authorization Code. If an applicant is denied participation based on deficiencies in the application, the notification letter will include the reasons for that denial. Eligible importers whose initial applications are rejected may re-apply after correcting any deficiencies in the initial application.

Customs expects to initially limit NCAP/P participation to ten (10) importers. Preference will be given to applicants who indicate that they plan to maintain an average of at least 25 entries per month throughout the prototype period. Eligible importers whose initial applications are rejected may re-apply if Customs subsequently opens participation to additional participants. Customs will publish a notice in the **Federal Register** if an expansion of participation is planned.

IV. Maintenance of Account Information

Following approval by Customs of an importer's application, each participating entry filer must provide Customs with a range of entry numbers to be reserved for assignment by Customs to NCAP/P shipments. Entry filers may not assign these numbers to other transactions, either for NCAP/P or for non-prototype entries.

Throughout the prototype period, participating importers must provide Customs with advance notification of any changes in the information provided in the application. This notification will be considered an amendment to the application. By notification of the participating importer, Customs may require that the participant not use a particular carrier, shipper, or seller, and not enter particular merchandise under this prototype.

V. Remote Location Filing

Some aspects of remote location filing will be supported in NCAP/P. Under the remote location filing component, importers will be able to electronically

file data with Customs from any place in the United States regardless of where the merchandise arrives. To qualify for remote location filing, a filer must be able to electronically transmit information on a shipment by shipment basis, including entry summary, invoice information (when required by Customs), and payment of duties, fees, and taxes. Use of the remote location filing component of the prototype is voluntary, but the same electronic data transmission requirements will apply for all prototype participants.

The designation of alternative locations for cargo examination will not be supported in NCAP/P. All cargo examinations will be conducted at the port where the cargo first arrives in the United States.

VI. Reconciliation

Currently there are two reconciliation prototypes in operation or being implemented, in addition to the NCAP/P. The reconciliation test of Antidumping and Countervailing duties was published on May 10, 1996 (61 FR 21534). The ''manual'' reconciliation test, which covers reconciliation of certain value issues, was published on February 6, 1997 (62 FR 5673). (In 1995 a notice was published in the **Federal Register** concerning a reconciliation prototype for related party importers making upward adjustments to the price of imported merchandise, pursuant to 26 U.S.C. 482. This prototype did not become operational.)

Importers are reminded that reasonable care is required for all phases of reconciliation, including, but not limited to, submitting information on the underlying entries, flagging the underlying entries for reconciliation, grouping the outstanding issue(s) from the range of entries onto the Reconciliation and providing the final information on the Reconciliation.

Reconciliation permits those elements of an entry, other than those related to admissibility, which are undetermined at the time of entry summary filing, to be provided at a subsequent time. For merchandise processed in the NCAP/P, reconciliation will allow participating importers to identify the following issues for which complete information is unavailable at the time of entry summary filing:

1. NAFTA
2. Value
3. 9802
4. Classification

Classification issues will be eligible for reconciliation only when such issues have been formally established as the subject of an administrative ruling, protest, petition, or Court action. Reconciliations of classification issues may result in a tariff shift which falls within the pre-identified range of 6-digit HTS provisions. Generally, the exercise of reasonable care should ensure that reconciliations do not result in a tariff shift outside the pre-identified range of 6-digit HTS provisions; however, if special circumstances justify a tariff shift outside the pre-identified range of 6-digit HTS numbers contained in the application, a participant must submit an amended application requesting permission to continue to enter such merchandise in this prototype.

Reconciliations of NAFTA issues must be electronically filed within one year of the date of importation of the oldest entry which is flagged for the Reconciliation. Reconciliation is a vehicle which an importer can use to file post-importation refund claims under 19 U.S.C. 1520(d). Consequently, a failure to file a NAFTA reconciliation within one year of the date of importation will preclude the granting of NAFTA tariff treatment. As such, NAFTA reconciliations are subject to the obligations under 19 CFR part 181, subpart D. NAFTA reconciliations must be supported by importer possession of the documents required under 19 U.S.C. 1520(d) and 19 CFR 181.32(b). Presentation of the NAFTA Certificate of Origin to Customs is waived for the purposes of this prototype test, and the filer must retain these documents, which shall be provided to Customs upon request. Filers are reminded that interest shall accrue from the date on which the claim for NAFTA eligibility is made (the date of the Reconciliation) to the date of liquidation or reliquidation of the Reconciliation.

Reconciliations of classification, 9802 and/or value issues must be electronically filed within 15 months of the date of entry summary filing for the oldest entry flagged for the Reconciliation. In order to gain as much experience as possible from this prototype, Customs will work with the participants to determine whether an earlier time frame for filing of the Reconciliation is possible.

Entry summaries may be flagged for reconciliation until the close of the test period. It is important to note that, although the test period has concluded, Reconciliations may be filed and liquidated after the closing date of the test.

Only consumption entries may be filed in the NCAP/P system. Entries subject to reconciliation will be flagged at the header level with an electronic indicator specifying the issue(s) to be reconciled.

The flagging of an entry for reconciliation will serve as the Notice of Intent to File a Reconciliation (''Notice of Intent''), and will permit the liquidation of an entry as to all issues other than those which are flagged for reconciliation. By filing a Notice of Intent, the importer voluntarily requests and accepts that each issue flagged for reconciliation, and the liability for each issue, is separated from the entry, remains open and is transferred to the Reconciliation. The Notice of Intent opens an obligation for the importer to file the Reconciliation. This obligation also applies to NAFTA reconciliations even if the participant finally concludes it cannot file a valid 520(d) claim, in which instance, the NAFTA reconciliation would be filed as no change.

Importers who choose to participate in this prototype will recognize that the liquidation of the underlying entries pertains only to those issues not identified by the importer on the Notice of Intent. Upon liquidation of the entry, any decision by Customs entering into that liquidation, e.g., classification, may be protested pursuant to 19 U.S.C. 1514. When the outstanding information, e.g., value as determined by the actual costs, is later furnished on the Reconciliation, the Reconciliation will be liquidated upon review by Customs. The liquidation of the Reconciliation may be protested but the protest may only pertain to issues contained in the liquidated Reconciliation, i.e., the protest may not re-visit issues previously liquidated in the entry. Separate Bulletin Notices of Liquidation will be posted for the liquidation of the underlying entries and for the liquidation of the Reconciliation.

Under the statutory mandate of 19 U.S.C. 1484, the importer is responsible for using reasonable care in declaring at entry the proper value, classification and rate of duty applicable to imported merchandise. Inherent in the concept of reconciliation is the fact that, because certain issues are kept open pending filing of the Reconciliation, the information regarding these issues and the resulting liability for the duties, taxes and fees previously asserted by the importer may change when the Reconciliation is filed. Therefore, should any drawback claim or Certificate of Delivery for drawback be filed on import entries which are flagged for reconciliation, Customs will pay accelerated drawback only after the Reconciliation is filed. Upon filing of the Reconciliation, the importer is responsible for indicating whether any underlying entry could be subject to drawback. In the case of a drawback

claim and a reconciliation refund against the same underlying entries, the importer is responsible for ensuring that refunds in excess of the duties paid are not filed with Customs and for substantiating how the separate refund requests apply to different merchandise.

A Reconciliation may cover any combination of value, 9802 and classification. Should the issues of value, 9802 and classification be flagged for reconciliation on one entry, one Reconciliation covering all three issues will be filed. NAFTA Reconciliations will not be combined with other issues, because of NAFTA's unique nature, different due dates, and so that Customs may expedite the processing of such refunds. Issues will always be reconciled in their entirety, as opposed to partial Reconciliations. Each Reconciliation should cover no fewer than ten entries. Reconciliation is to be used to group entries together for a common, outstanding issue.

A Reconciliation is treated as a legal entry for purposes of liquidation, reliquidation and protest. For purposes of this prototype, each Reconciliation must be covered by one surety, i.e., two sureties cannot cover the same Reconciliation. The continuous bond obligated on the underlying entries will be used to cover the Reconciliation.

Payments due from the participant as a result of the Reconciliation will be reflected on the participant's monthly statement. Should the Reconciliation result in a refund due the participant, the refund will also appear on the monthly statement and will be used to offset existing or future payment obligations of the participant. Customs will calculate interest upon liquidation of the Reconciliation, and reflect such interest on the monthly statement.

The Reconciliation header will contain the Reconciliation number, the date of Reconciliation filing, the issue(s) being reconciled and the comments. In the comment field, the filer may provide pertinent information, to explain, for example, that the specific value issue within this Reconciliation is an assist declaration.

Following this summary information, there will be two parts of the Reconciliation. The first part will include a list of underlying entry numbers, entry summary dates, and the total duty, taxes and fees (reported by class code) which should have been paid for each of the underlying entries had the complete information been available to the importer at the time of filing of the entry summary. This part of the Reconciliation will also have a field to indicate entries being closed out on the Reconciliation which did not change.

Part two of the Reconciliation will list all of the lines on the flagged entries which changed as a result of the reconciliation. Data elements for each line include entry number, SPI if applicable, HTS, country of origin, quantity if applicable, total value and the total duties, taxes and fees (reported by class code). The ''total'' figures will represent that which was reported on the underlying entry plus the change pursuant to the Reconciliation. In coordination with the Census Bureau, Customs is analyzing the assignment of a parameter, below which the reporting of reconciled lines (Part 2) would not be required.

The reporting of line items is an interim step being taken for the purposes of gaining experience in the short term. While the Reconciliation will capture line item details for this prototype, Customs is working toward capturing the reconciled information at an aggregate level for future prototypes, which will incorporate compensating controls as a means to ensure that financial safeguards are in place.

The following will serve as an example of the probable structure for the Reconciliation:

Reconciliation #557, Date: 2/1/97, Issue: NAFTA
Part 1:

Entry	Summary date	Total duties	Total taxes	Total fees [499]	No change
123	10/11/96	$25		$2.89	
234	11/11/96				X
345	12/11/96	$200		$6.10	

Part 2:

Entry	SPI/HTS	Country of origin	Qty	Total value	Total duty	Total taxes	Total fees [499]
123	2222	MX	0	$0	$0		$0
123	MX2222	MX	700	$1000	$0		$1.90
123	3333	MX	500	$250	$25		$0.52
123	MX3333	MX	500	$250	$0		$0.47
345	2222	MX	750	$1500	$150		$3.15
345	MX2222	MX	250	$500	$0		$0.95
345	3333	MX	200	$500	$50		$1.05
345	MX3333	MX	200	$500	$0		$0.95

VII. Account-Based Import Declaration Process

The account-based declaration process is a fully electronic process that will, for NCAP/P participant importers, who must file consumption entries under NCAP/P:

1. Base cargo examination decisions primarily on pre-established account/entry information, minimizing the transaction data that needs to be transmitted to Customs prior to release of cargo. Cargo examinations will also be performed on the basis of selectivity criteria and for random compliance measurement sampling;

2. Permit reporting of detailed entry summary data on a monthly cycle, and

3. Provide for payment of duties, taxes and fees on a monthly statement cycle employing semi-monthly estimated payments.

While various automatic notifications and back-up procedures will also be supported, the basic declaration flow for NCAP/P will be as follows:

1. The application will serve as a pre-filed entry for NCAP/P purposes.

2. Prior to arrival of cargo at the border, the carrier issuing the manifest or an authorized agent will electronically transmit to Customs basic manifest data: coded identification of the carrier; trip details; identification of drivers, the conveyance and other equipment; and an identifying number and the laden quantity for each shipment on the conveyance.

3. Also prior to arrival of the cargo at the border, data pertaining to each individual shipment must be electronically transmitted to Customs. This shipment data will include information generally found on freight bills, plus the NCAP/P Authorization Code assigned to the participating importer by Customs, and identification of the entry filer and the seller and buyer of the merchandise. This shipment data may be transmitted by the carrier issuing the manifest, an authorized agent acting on behalf of the carrier issuing the manifest, or the entry filer (i.e., either the importer of record or the importer of record's customs broker.)

4. Customs will assign an entry number to each shipment from the range of entry numbers provided in advance by each participating entry filer for that purpose. When a truck arrives at the border, shipments for which no physical examination of cargo is required will be released without additional data or documentation. For any shipment aboard that truck selected by Customs for physical examination of cargo, Customs will issue to the entry filer designated in the shipment data an electronic request for additional information. This request may be satisfied by transmission of either partial or complete entry summary and commercial data, as defined by Customs, plus packing data. The commercial data required for cargo examination, whether partial or complete, will be at the detailed item level. Cargo will not be examined until this data is received by Customs.

5. The date of entry will be the date on which merchandise is released by Customs. The release will obligate the continuous bond identified in the prototype application of the importer whose NCAP/P Authorization Code is present in the shipment data.

6. For each shipment released during a calendar month, the entry filer must electronically transmit complete entry summary data to Customs on or before the filing deadline for that month. The filing deadline for each month will be the 10th calendar day of the following month, or, if the 10th falls on a weekend or holiday, the next business day. Entry summary data transmitted prior to this deadline will be considered provisional and may be replaced by the entry filer anytime before the deadline. All summaries filed on or before the deadline will be considered as filed on the deadline date. Any issues that may be the subject of a future reconciliation must be identified in the entry summary data.

7. For any entry summary selected by Customs for data review, unless complete commercial data was previously transmitted to support a cargo examination, Customs will issue to the entry filer an electronic request for complete commercial data. This request must be satisfied by electronic transmission of a complete set of commercial data, as defined by Customs, plus packing data if specifically requested.

8. By virtue of 19 CFR 101.9, the Customs Service may impose requirements different than those specified in the Customs Regulations; but only to the extent that such different requirements do not affect the collection of revenue. Consequently, in order to permit a different procedure to test the periodic deposit of estimated duties without adversely affecting the collection of revenue, the participant must agree to and abide by the following procedures. Each participating importer account will make semi-monthly preliminary estimated payments through an electronic medium. Preliminary estimated payments will be initiated electronically using ACH credit on the 15th and the last day of the month. If the 15th or the last day of the month falls on a weekend or holiday, the payment must be initiated the next business day. Under the prototype, special electronic payment procedures will be utilized. The preliminary estimated payments will be based upon the following percentages: (a) The payment initiated on the 15th will be 75% of the estimated amount due on all releases for the 1–15th of the month, (b) the payment initiated on the last day of the month will be 57% of the estimated amount due on all releases from the 16th to the last day of the month. These percentages will be reviewed and may have to be adjusted to maintain revenue neutrality. Payment for the remaining balance will be initiated electronically on the 15th of the following month, and it is this date which Customs and the participants agree will serve as the date of actual deposit of estimated duties and fees for purposes of assessing interest under 19 U.S.C. 1505. Customs will issue two statements each month, one before and one after the monthly filing deadline. Each statement will list each importer account's NCAP/P activity at all locations for the reporting month, and will indicate whether entry summary data has been filed and, if it has, amounts due.

9. Within the period of time prescribed for each issue, the entry filer must transmit an electronic Reconciliation to resolve each issue identified for reconciliation in entry summary data. In general, one Reconciliation will resolve multiple issues for each of the underlying entries.

Cargo will be released and duties, taxes and fees assessed on the basis of data transmitted to the NCAP/P system. For shipments processed in NCAP/P, participants will not be required to provide parallel filing of ACS data or paper documents.

VIII. Suspension From Prototype

If a participant attempts to enter or submit data relating to prohibited merchandise, merchandise subject to quota or antidumping or countervailing duties, or other non-eligible merchandise; or if a participant files non-consumption entries; files erroneous or untimely data; fails to provide requested invoice data or sufficient supporting documentation for Reconciliations; makes late or inadequate payments; fails to exercise reasonable care in the execution of participant obligations; or otherwise fails to follow the procedures outlined herein, and applicable laws and regulations, then the participant may be suspended from the prototype, and/or be subject to penalties.

Any decision suspending participation may be appealed to the Trade Compliance Process Owner, within 15 days of the decision date.

IX. Regulatory Provisions Suspended

Certain provisions of parts 24, 111, 141, 142, 143 and 159 of the Customs Regulations (19 CFR parts 24, 111, 141, 142, 143 and 159) will be suspended during this prototype test to allow for monthly filing of entry summary data, periodic payment of duties, taxes and fees, reconciliation for NAFTA, classification, value and 9802 issues, liquidation, billing and remote filing by Customs brokers in ports where they currently do not hold permits.

Absent any specified alternate procedure, the current regulations apply.

X. Prototype Evaluation

Once the importers are selected for NCAP/P, the Joint Prototype Team will, during the initial six months of the test period, evaluate the effectiveness of the

automation involved. Subsequent reviews will additionally consist of evaluating the data received from the importers, along with the internal and external process operations of the NCAP/P.

Additional importers may become eligible during the prototype period, using the eligibility requirements cited above, thereby increasing the number of companies involved in the NCAP/P. The evaluation of the prototype as it pertains to these importers may occur separately from that which is done on the original participants. Regardless, the intention of the evaluations is to enhance operational procedures and to develop the detailed data requirements that are needed for NCAP.

Note that the fact of participation in the NCAP/P is not confidential information. Lists of participants will be made available to the public by means of the Customs Electronic Bulletin Board and the Customs Administrative Message System, and upon written request. We stress that all interested parties are invited to comment on the design, conduct, and evaluation of NCAP/P at any time during prototype.

Upon conclusion of the prototype the final results will be published in the **Federal Register** and the Customs Bulletin as required by § 101.9(b), Customs Regulations and reported to Congress.

Dated: March 21, 1997.

Audrey Adams,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 97–7733 Filed 3–26–97; 8:45 am]

BILLING CODE 4820–02–P

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Issue Of United States Mortgage Guaranty Insurance Company Tax And Loss Bonds.

DATES: Written comments should be received on or before May 27, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Issue Of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

Form Number: PD F 3871.

Abstract: The information is used to establish and maintain Tax and Loss Bond Accounts.

Current Actions: The current collection is used to establish Tax and Loss Bond Accounts. The additional information will allow for Direct Deposit (ACH) for payments.

Type of Review: New.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 80.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 20.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 20, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–7772 Filed 3–26–97; 8:45 am]

BILLING CODE 4810–39–P

Corrections

Federal Register

Vol. 62, No. 59

Thursday, March 27, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2638

RIN 3209-AA07

Executive Agency Ethics Training Program Regulation Amendments

Correction

In rule document 97–6160 beginning on page 11307 in the issue of Wednesday, March 12, 1997 make the following correction.

On page 11312, in the first column, the date beginning on the eighth line from the bottom, ''May 12, 1997'' should read ''June 10, 1997''.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38324; File No. SR-Amex-97-05]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Disclaimer Provisions of Amex Rule 902c

February 24, 1997.

Correction

In notice document 97–5028, beginning on page 9224 in the issue of Friday, February 28, 1997, the file number is corrected to read as set forth above.

BILLING CODE 1505-01-D

SECURITIES EXCHANGE COMMISSION

[Release No. 34–38286; File No. SR–CBOE–96–70]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change Relating to the Reporting Requirements for Securities Accounts and Orders of Market-Makers and Joint Account Provisions

February 13, 1997.

Correction

In notice document 97–4387, beginning on page 8287 in the issue of Monday, February 24, 1997, make the following correction:

On page 8289, in the first column, ''Margaret H. McFarland, Deputy Secretary'' should be added as the signature line at the end of the document.

BILLING CODE 1505-01-D

SECURITIES EXCHANGE COMMISSION

[Release No. 34–38371; File No. SR–CHX–97–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to SEC Transaction Fees

March 6, 1997.

Correction

In notice document 97–6419, beginning on page 12261 in the issue of Friday, March 14, 1997, the date March 6, 1997 should be added as set forth above.

BILLING CODE 1505-01-D

SECURITIES EXCHANGE COMMISSION

[Release No. 34–38284; File No. SR–OCC–96–15]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Revisions to the Standards for Letters of Credit Deposited as Margin

February 13, 1997.

Correction

In notice document 97–4234, beginning on page 8070 in the issue of Friday, February 21, 1997, the date February 13, 1997 should be added as set forth above.

BILLING CODE 1505-01-D

SECURITIES EXCHANGE COMMISSION

[Release No. 34–38305; File No. SR–Philadep–96–23]

Self-Regulatory Organizations; The Philadelphia Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Consolidate and Restate Its Fee Schedule

February 19, 1997.

Correction

In notice document 97–4608, beginning on page 8479 in the issue of Tuesday, February 25, 1997, the date February 19, 1997 should be added as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 96–130; Notice 01]

RIN 2127–AG56

Insurer Reporting Requirements; List of Insurers Required to File Reports

Correction

In proposed rule document 97–4355, beginning on page 8206 in the issue of Monday, February 24, 1997, make the following correction:

Appendix B to Part 544 [Corrected]

On page 8208, in the third column, in Appendix B to part 544, in the tenth line ''Integon Corporate Group'''', should read ''Integon Corporate Group [1]''.

BILLING CODE 1505-01-D

Federal Register

Thursday
March 27, 1997

Part II

Environmental Protection Agency

40 CFR Part 90

Statements of Principles for Nonroad Phase 2 Small Spark-Ignited Engines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 90

[FRL–5802–5]

Statements of Principles for Nonroad Phase 2 Small Spark-Ignited Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: EPA is developing a second phase of national air emission regulations that affect small spark-ignited (SI) engines used primarily in lawn and garden equipment. EPA expects the program to reduce combined emissions of hydrocarbon (HC) and oxides of nitrogen (NO_X) from these engines by an additional 30 to 40 percent beyond Phase 1 levels, in excess of 100,000 tons of HC per year with minimal changes in NO_X. These emission reductions will result in a decrease in summertime ozone and a corresponding health and welfare benefit. In 1996 EPA and certain other interested parties signed two different Statements of Principles (SOPs) that describe various aspects of the Phase 2 program that EPA will propose. One SOP focuses on provisions that would affect engines used in handheld equipment such as leaf blowers, chain saws, and trimmers. The second SOP addresses provisions that would affect engines used in nonhandheld equipment such as lawnmowers and generator sets. EPA is issuing this ANPRM to: notify the public about the availability of the two small SI nonroad engine SOPs; request comment on the SOPs, and; inform interested parties about the forthcoming Phase 2 small SI engine Notice of Proposed Rulemaking (NPRM) which will be based in part on the two SOPs.

DATES: EPA requests comment on this ANPRM no later than April 28, 1997. Should a commenter miss the requested deadline, EPA will try to consider any comments that it receives prior to publication of the NPRM. There will also be an opportunity for oral and written comment after publication of the NPRM.

ADDRESSES: Materials relevant to this Notice are contained in EPA Air and Radiation Docket No. A–96–55 and Docket No. A–93–29, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. The docket may also be reached by telephone at (202) 260–7548.

As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

Comments on this document should be sent to Public Docket A–96–55 at the above address. EPA requests that a copy of comments also be sent to Betsy McCabe, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Betsy McCabe, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4344. Electronic mail: mccabe.betsy@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Background and Purpose for this Advance Notice

With this document EPA announces the signing of two Statements of Principles (SOPs). One SOP, signed in May, 1996, focuses on provisions to be proposed in a future Notice of Proposed Rulemaking (NPRM) that would affect new spark-ignited (SI) engines at or below 19 kilowatts (25 horsepower) used in handheld applications such as trimmers, edgers, brush cutters, leaf blowers, leaf vacuums, chain saws, augers, and tillers. In developing this handheld SOP, EPA, state, and industry representatives reached agreement on several elements of a Phase 2 program to be proposed for these small handheld SI engines. The second SOP, signed in December, 1996, describes areas of agreement between EPA and certain industry representatives for a Phase 2 program to be proposed for small SI engines used in nonhandheld equipment such as lawnmowers, generator sets, and riding mowers.

EPA anticipates issuing an NPRM, based in part on these two SOPs, by the Fall of 1997. The NPRM will be subject to the full public process required by section 307(d) of the Clean Air Act, as amended, 42 U.S.C. 7607(d). By announcing the availability of the handheld and nonhandheld SOPs in this Advance Notice, EPA hopes to receive early comments and suggestions which can inform the development of the proposal and, ultimately, the final regulations for Phase 2. Today's Advance Notice includes the text of the handheld and nonhandheld SOPs as appendices to this preamble.

II. Brief Background on Small SI Engine Rulemakings

In July 1995, EPA issued the first national program to reduce emissions from small SI engines (60 FR 34582, July 3, 1995, codified at 40 CFR part 90). This program, called ''Phase 1,'' takes effect with model year 1997 and sets emissions standards for ''new'' small SI engines. The Phase 1 standards are expected to result in a 32 percent reduction in HC emissions from small SI engines. The Phase 1 program was developed through the notice and comment rulemaking process, and the regulations are similar in many respects to California's Tier I Regulation for 1995 and Later Utility and Lawn and Garden Equipment Engines.[1] While EPA was developing the Phase 1 regulations, EPA began working with certain interested parties in a consultative process to develop a comprehensive Phase 2 program that focusses on ensuring that emissions reductions from small SI engines are achieved ''in-use.''

In September 1993, a Negotiated Rulemaking Advisory Committee was formed to support EPA in developing a practical approach to a comprehensive regulatory program for Phase 2. This committee, consisting of representatives from industry, small business, state, public health and environmental groups, and EPA, met until February 1996, but did not reach consensus on an Agreement in Principle or draft regulatory language. However, the regulatory negotiation process (Reg Neg) produced substantial useful information and provided EPA with input from numerous key stakeholders which will help the Agency develop the Phase 2 small SI engine regulatory program. Subsequent to the conclusion of the Reg Neg process, EPA continued working with some of the parties to reach agreement on how certain aspects of a Phase 2 program would be addressed in a future NPRM. As these discussions proceeded, the involved parties worked together to develop written documents, Statements of Principles, which will partly form the basis of the Phase 2 NPRM. The handheld SOP addresses issues affecting engines used in handheld equipment, and the nonhandheld SOP addresses issues affecting engines used in nonhandheld equipment. Key features of the SOPs are described briefly below. However, the reader is advised to refer to the actual SOP documents that follow for details (see also section VII, ''Obtaining Copies of Documents''). Issues not discussed in the SOPs will be addressed in the Phase 2 NPRM.

[1] The California Regulations for 1995 and Later Utility and Lawn and Garden Equipment Engines were initially approved in December 1990, and formally adopted in March 1992.

III. Brief Summary of the Handheld SOP for Small SI Engines

Parties to the handheld SOP, signed in May, 1996, include EPA; the Auger and Power Equipment Manufacturers Association (APEMA); the North American Equipment Dealers Association (NAEDA); the Portable Power Equipment Manufacturers Association (PPEMA); the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO); and the Wisconsin Department of Natural Resources.

This SOP outlines elements for a Phase 2 program to be proposed by EPA for Class 3, 4, and 5 handheld small SI engines at or below 19 kilowatts. Handheld engines generally use 2-stroke technology due to its high power to weight ratio and its allowance for multi-positional use. Because of these characteristics, handheld engines are used in equipment typically carried by the operator, such as chainsaws, trimmers, and blowers.

As described in the SOP, EPA plans to propose Phase 2 emission standards for emissions of $HC+NO_X$ and for carbon monoxide (CO) from handheld engines that are to be met over the lifetime of the engine. These standards, if adopted, would represent an estimated 30 percent reduction in $HC+NO_X$ exhaust levels from these engines below Phase 1 levels.

The involved parties also agreed that EPA would propose a provision for phased-in effective dates based on a percentage of production from model year 2002 through model year 2005.

As described in the SOP, the signatories agreed that a particulate matter and toxics test program will be conducted to collect and evaluate information on emissions of these pollutants from handheld sources.

The signatories also agreed that the NPRM would include a voluntary program that would allow manufacturers to display a label or symbol identifying handheld engines that have $HC+NO_X$ certification levels substantially below the Phase 2 standards.

The following elements of a compliance program are reflected in the SOP and will be described in the NPRM: a certification program; a production line testing program; and an in-use testing program. The provisions in the compliance program that EPA will propose will help ensure that handheld engines continue meeting the standards for the life of the engine.

In addition, the SOP provides that EPA intends to conduct a technology review to assess whether any further revisions to the emissions standards for handheld engines would be appropriate.

IV. Brief Summary of the Nonhandheld SOP for Small SI Engines

Parties to the nonhandheld SOP, signed in December 1996, include EPA; Briggs & Stratton Corporation; Kawasaki Motors Corporation, U.S.A.; Kohler Company; Kubota; Mitsubishi Engine North America, Inc.; Onan Corporation; Suzuki Motor Corporation; Tecumseh Products Company; The Toro Company; and Wis-Con Total Power Corporation.

This SOP outlines elements of a Phase 2 program to be proposed by EPA for Class 1 and 2 nonhandheld small SI engines at or below 19 kilowatts. Class 1 engines have displacements of less than 225 cc and are typically used in relatively inexpensive residential applications such as walk-behind lawnmowers and tillers. Most Class 1 engines use side-valve (SV) technology. Class 2 engines have displacements greater than or equal to 225 cc, and are typically used in more expensive commercial applications such as lawn tractors, riding mowers and generator sets.

As described in the nonhandheld SOP, EPA plans to propose in the Phase 2 NPRM standards for $HC + NO_X$ and CO emissions from nonhandheld engines that are to be met over the lifetime of the engine. These standards, if adopted, would represent a 30 to 40 percent reduction in $HC + NO_X$ exhaust emissions from these engines below Phase 1 levels.

The signatories also agreed that EPA would propose a provision for an effective date of 2001 for Class 1 engines, and a phase-in between 2001 and 2005 for Class 2 engines. The signatories expect that the emission standards and effective dates contained in the SOP would cause manufacturers to shift their Class 2 engines to cleaner, more durable technology, such as over-head valve (OHV) technology by 2005.

To help determine the consumer acceptance and feasibility of applying OHV technology to Class 1 engines, EPA and certain manufacturers have entered into separate Memoranda of Understanding calling for an OHV Demonstration Program to be implemented by those manufacturers. Readers who are interested in learning more about the OHV Demonstration Program should refer directly to the Memoranda of Understanding (MOUs), available electronically (see Obtaining Copies of Documents section) and in the public docket for this rulemaking.

As described in detail in the nonhandheld SOP, EPA plans to propose a comprehensive compliance program for nonhandheld engines in the Phase 2 NPRM. This program will be designed to ensure that emission benefits are achieved over the lifetime of the engines while minimizing manufacturers' compliance burdens. The Phase 2 compliance provisions in the NPRM for nonhandheld engines will include certification and production line testing programs. In addition, the proposed program will call for manufacturers to conduct a field durability and in-use emission performance demonstration program for OHV engines every four years.

The signatories also agreed to work together to develop a voluntary Fuel Spillage Reduction Program aimed at educating consumers about the significant contribution to air pollution from spillage, and encouraging the development and use of technology that will reduce or eliminate spills by users.

V. Environmental Benefit Assessment

National Ambient Air Quality Standards (NAAQS) have been set for criteria pollutants which adversely affect human health, vegetation, materials, and visibility. The primary criteria pollutant affected by this rule is ozone. EPA has determined the standards contained in this NPRM will reduce HC emissions from spark-ignition small engines with minimal changes in NO_X levels and help areas come into compliance with the ozone NAAQS. The following sections contain a brief description of some of the health effects associated with ozone, and the importance of continuing to reduce HC emissions. The NPRM for this rule will contain a more detailed discussion of the health and welfare benefits which can be expected from this program.

A. Health Effects of Tropospheric Ozone

Ozone is a highly reactive chemical compound which can affect both biological tissues and man-made materials. Ozone can affect human pulmonary and respiratory health—symptoms include chest pain, coughing, and shortness of breath.[2] Elevated ozone levels can cause aggravation of pre-existing respiratory conditions such as asthma. Ozone can cause a reduction in performance during exercise even in healthy persons. In addition, ozone can also cause alterations in pulmonary and extrapulmonary (nervous system, blood, liver, endocrine) function. The oxidizing effect of ozone can irritate the

[2] Air Quality Criteria Document for Ozone and Related Photochemical Oxidants (External Review Draft), EPA–600/AP–93/004a–c, February, 1995 (NTIS #: PB94–17–3127, –3135, –3143).

nose, mouth, and throat causing coughing, choking, and eye irritation.

The presence of elevated levels of ozone is of concern in rural areas as well. Because of its high chemical reactivity, ozone causes damage to vegetation. Estimates based on experimental studies of the major commercial crops in the U.S. suggest that ozone may be responsible for significant agricultural crop yield losses. In addition, ozone causes noticeable leaf damage in many crops, which reduces marketability and value. Finally, there is evidence that exposures to ambient levels of ozone which exist in many parts of the country are also responsible for forest and ecosystem damage. Such damage may be exhibited as leaf damage, reduced growth rate, and increased susceptibility to insects, disease, and other environmental stresses and has been reported to occur in areas that attain the current standard. There are complexities associated with evaluating such effects due to the wide range of species and biological systems introduce significant uncertainties.

B. Need for NO_X and VOC Control

Photochemical modeling highlights the fact that ozone pollution is a regional problem, not simply a local or state problem. Ozone itself and its precursors are transported long distances by winds and meteorological events. Thus, achieving ozone attainment for an area and thereby protecting its citizens from ozone-related health effects often depends on the ozone and/or precursor emission levels of upwind areas. Local stationary source NO_X and VOC controls will assist nonattainment areas toward their ozone reduction goals, but for many areas with persistent ozone problems, attainment of the ozone NAAQS will require broader control strategies for both NO_X and VOC. As a result, effective national ozone control requires an integrated strategy which combines cost-effective approaches in both the mobile and stationary source arenas at both the local and national levels.

Small spark-ignited engines represent an important portion of the national HC inventories. The program contained in todays notice will result in important reductions in HC (in excess of 100,000 tons HC/year) with little change in NO_X levels from small spark-ignited nonroad engines. These meaningful HC reductions will help to alleviate the problems associated with ozone formation in many nonattainment areas throughout the country.

VI. Discussion of Issues

EPA seeks comments on the provisions described in the handheld and nonhandheld SOPs that are summarized above and published in their entirety along with this ANPRM. In particular, the Agency requests comment on some areas for which the SOPs do not contain detailed provisions, as discussed below.

A. Definitions of Commercial and Residential

As discussed in the handheld SOP, at the time of certification handheld engine manufacturers would declare an engine family to be ''commercial'' or ''residential'' based on the expected useful life and intended application of the engine. Comment is solicited on the appropriate definitions of ''commercial'' and ''residential.''

B. Bench Aging Correlation Program

Both SOPs contain provisions for bench aging programs as part of the compliance programs that EPA will propose for the Phase 2 NPRM. EPA solicits suggestions on the ability of bench aging to adequately demonstrate deterioration of engines in the field. The Agency also seeks comment on methods for correlating bench-aged and field-aged results. In addition, EPA requests comment on whether there are certain engine technologies that are more suitable to bench aging than others. In particular the Agency seeks information on whether the bench aging certification program for side valve engines is the appropriate method for estimating deterioration.

C. Deterioration Factors

The nonhandheld SOP signatories agree to the goal of designing and building engines that are emissions durable over their actual useful lives. Consequently, under the program envisioned in the SOP the test results from any of the new engine compliance programs would be adjusted by deterioration factors to estimate emissions at the end of the engine's life. The nonhandheld SOP describes several program elements that involve establishment of deterioration factors (DFs). As EPA further develops its Phase 2 program to propose in the NPRM, the Agency requests comment on various aspects of developing appropriate deterioration factors. EPA seeks additional data on which to base assigned DFs in the Phase 2 proposal. In addition, EPA seeks comment on the types of data required for both assigned and manufacturer-determined DFs for the 500 and 1000 hour useful life categories for Class 2 engines. The Agency also seeks suggestions on the appropriateness of establishing optional assigned DFs for the 250 and 500 hour useful life categories for Class 1. EPA encourages interested parties to provide comment, regarding Class 2 engines, on the kind of data required to determine the DFs, the methodology required to determine the DFs, the amount of in-use testing required to verify the DFs, and the appropriateness of reserving certification credits pending verification of the DFs through in-use testing.

D. Averaging, Banking and Trading (ABT)

The Signatories to the nonhandheld SOP agree that an ABT program would help ensure that the standards and phase-in structure that EPA will propose in the Phase 2 NPRM will be cost-effective and technologically feasible. Signatories to the handheld SOP did not reach agreement on an ABT program. EPA seeks comment on the appropriateness of the ABT program described in the nonhandheld SOP and also on whether or not an ABT program would be appropriate for the handheld segment of the small SI industry. In addition, EPA solicits comment on the appropriateness of the provision described in the nonhandheld SOP of unlimited life for credits generated under the Phase 2 program when used for purposes of compliance with the SOP nonhandheld standards that EPA will propose in the Phase 2 NPRM.

E. Fuel Spillage Reduction Program

The nonhandheld SOP includes a provision for the signatories to work collaboratively and with other affected parties to develop a voluntary fuel spillage reduction program. It is anticipated that this voluntary partnership program would involve EPA; engine manufacturers and equipment manufacturers; and potentially regional, state, and local air pollution agencies; health and environmental organizations; and other interested parties. The strategies involved in reducing fuel spillage would include, but not be limited to:

- providing information and reminders at public places where refueling frequently occurs, where equipment or fuel supplies are sold, and similar places;
- providing education and training to commercial operators of equipment, to those persons who influence individuals doing the refueling (such as equipment sales staff or small engine course instructors), and similar target audiences;
- providing educational materials for use in environmental education courses

or related programs targeting children and youth;

- encouraging the development of technology that will assist equipment users in reducing spills and providing recognition for implementing technology developments that will assist equipment users in reducing spills.

EPA will develop this program in greater detail as the proposed rule is developed and finalized and encourages those parties interested in participating to contact the Agency.

The Agency believes it is appropriate to develop and implement a program unique to the small SI industry to encourage public awareness and act as an incentive for technology investments. Every year, millions of gallons of gasoline are lost during refueling. It is estimated that the few ounces spilled during refueling lawn and garden equipment alone total about 17 million gallons of gasoline, most of which evaporates into the air to contribute to the air pollution problem. To reduce and prevent this pollution a variety of measures will be needed, most involving increased public awareness and education.

The Agency seeks comment on this possible voluntary partnership program, appropriate strategies, appropriate target audiences, and other matters pertinent to establishing this program. EPA also solicits comment on the feasibility and appropriateness of expanding such a program to the handheld side of the industry.

F. Environmental Labeling Program

EPA will be developing an incentive and recognition program to identify for consumers those handheld engines which emit HC+NO_X levels substantially below the Phase 2 levels. This program would be voluntary. Manufacturers who meet the program qualifications and choose to participate would be recognized for their efforts and allowed to display a symbol (as yet unidentified) on qualifying products identifying them as cleaner engines.

As part of the public recognition program, EPA will establish criteria for the standards and the procedure required to qualify for public recognition. The specific details of the incentive and recognition program will be determined as the proposed rule is developed and finalized. Some of the matters which need to be considered include, but are not limited to:

- emission level at which recognition will be granted;
- single or multiple levels of recognition provided (that is, recognizing in a different manner or with a different symbol, those who comply at the minimum level of the requirement from those products who go beyond the minimum level);
- period of recognition;
- type of recognition;
- appropriate symbol and identifier for this program;
- criteria for use of the symbol on the product, packaging, or advertisements for the engine;
- administrator and/or manager of the program—EPA, independent third party, combination, or some other option;
- process for administration of the program on ongoing basis.

EPA will propose an initial framework for this program as part of the NPRM.

The Agency believes it is appropriate to develop and implement a program unique to this industry as an incentive for advanced technology investments. EPA solicits comment on this possible incentive and recognition program, the applicable criteria, the type of recognition accorded, the period of recognition, and any other matters pertinent to establishing this program.

While EPA is initially developing this program for handheld engines which emit below the Phase 2 levels, the Agency solicits comment on the feasibility and appropriateness of such a program for nonhandheld engines, including the applicable criteria, the type of recognition accorded, and the period of recognition. In addition, EPA also solicits comments on the feasibility and appropriateness of expanding such a program to include similar equipment not subject to the small SI engine regulations (such as electric string trimmers and mowers).

G. PM and Toxics Testing Program

The handheld SOP describes a particulate matter (PM) and toxics test program that EPA will propose as part of the Phase 2 NPRM. The Agency requests comment on the scope of the program, the number of test engines, and the types of pollutants to be tested. In addition EPA seeks suggestions as to who might best administer the test program, how the program might be administered, and the level of funding needed to conduct such a program. EPA also seeks comment on the time frame for such a program, given the consideration that such a program could begin prior to implementation of the Phase 2 program, since there are handheld engines now available which meet the standards described in the handheld SOP which the Agency will propose in the Phase 2 NPRM.

H. Cost Information on Field Ageing

EPA solicits information as to the costs for manufacturers to field age engines used in handheld and nonhandheld equipment out to the end of their regulatory useful lives as described in the SOPs.

I. Impact on Equipment Manufacturers

As it works on developing the Phase 2 NPRM, EPA is trying to gain a better understanding of various aspects of the small SI equipment industry, and the impacts that the Phase 2 program EPA will propose would have on the equipment industry. Consequently, the Agency seeks any detailed information regarding the impact of the program on the equipment manufacturers. In particular, the Agency seeks specific information from nonhandheld equipment manufacturers on the number of production lines per equipment type that will need to be changed in order to incorporate engines changing to OHV technology.

J. Fuel Consumption Data

In order to fully discuss the effects of the Phase 2 program it will propose, EPA seeks detailed data regarding fuel consumption for both handheld and nonhandheld Phase 1 and Phase 2 engines and the effects of various technological changes and emission reduction strategies on fuel consumption.

VII. Public Participation

By September 30, 1997, EPA will issue a Notice of Proposed Rulemaking based in part on the SOPs for Phase 2 nonroad small SI engines. The Agency is committed to a full and open regulatory process and looks forward to input from a wide range of interested parties as the rulemaking process develops. Opportunities for input will include a formal public comment period and a public hearing. EPA encourages all interested parties to become involved in this process as it develops.

With publication of this ANPRM, EPA opens a 30 day comment period regarding the content of this ANPRM and the handheld and nonhandheld SOPs (see **DATES** section above for close of comment period). The Agency strongly encourages comment on all aspects of the SOPs. The most useful comments are those supported by appropriate and detailed rationales, data, and analyses. In particular, EPA requests comment on those issues described in the Discussion of Issues section. All comments, with the exception of proprietary information, should be submitted to the EPA Air Docket No. A–96–55 by the date

specified above. The Agency will consider all comments, and use them in developing the NPRM.

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information ''Confidential Business Information'' and (2) sending proprietary directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket. This will help ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission of confidential information as part of the basis for the NPRM or for the final rule, then a nonconfidential version of the document that summarizes the key information or data should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and in accordance with the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it will be made available to the public without further notice to the commenter.

VIII. Obtaining Copies of Documents

This Advance Notice, both the handheld and nonhandheld SOPs, and the MOUs are available in hard copy from the public docket. These documents are also available electronically from the EPA Internet site and the Technology Transfer Network (TTN).

A. Hard Copies From the Docket

Hard copies of this ANPRM, the SOPs, and the MOUs may be obtained from the EPA Air and Radiation public docket as described in the **ADDRESSES** section above.

B. Electronic Copies From Internet and TTN

Electronic copies of this ANPRM, the handheld and nonhandheld SOPs, and the MOUs are available electronically from the EPA internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer and modem per the following information.

Internet

World Wide Web: http://www.epa.gov/OMSWWW

Gopher: gopher.epa.gov Follow menus for: Offices/Air/OMS FTP: ftp.epa.gov Change Directory to pub/gopher/OMS

Technology Transfer Network (TTN)

TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit) Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Voice Helpline: 919–541–5384.

Off-line: Mondays from 8:00 AM to 12:00 noon EST.

A user who has not called TTN previously will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<6> Non-Road
<2> Non-road Engines

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e. ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

IX. Legal Authority

Authority to develop the small SI program is granted to EPA by sections 213 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7547, 7601(a)).

X. Unfunded Mandates Reform Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the requirements of UMRA do not extend to advance notices of proposed rulemaking such as this ANPRM.

XI. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) is intended to assure that concerns about small entities are adequately considered during the development of new regulations which affect them. While the Regulatory Flexibility Act does not require a formal analysis of ANPRMs, pursuant to section 609(a) of the RFA EPA has begun to consider how small entities would be affected by the potential new standards discussed in the SOPs.

The nonroad small SI industry is made up of a large number of engine manufacturers, and a still larger number of equipment manufacturers, many of which do business internationally. Some of these manufacturers may be small businesses as defined by the RFA and applicable regulations and thus may be impacted by the Phase 2 standards for handheld and nonhandheld engines.

EPA plans to minimize any adverse impact on smaller nonroad small SI engine and equipment manufacturers to the extent possible consistent with the law, and will work with representatives of such entities as the formal proposal is developed. EPA requests comment on the impacts of the program outlined in the SOPs on small entities. In particular, EPA solicits advice and recommendations on the following issues:

(a) The number of small entities to which the proposed rule as based on the SOPs would apply;

(b) Projected reporting, record keeping, and other compliance requirements of the proposed rule as based on the SOPs, including the classes of small entities which would be subject to the Phase 2 requirements and the type of professional skills necessary for preparation of the report or record;

(c) Other relevant Federal rules which may duplicate, overlap or conflict with the proposed rule as based on the SOPs; and,

(d) Any significant alternatives to the proposed rule as based on the SOPs which would accomplish the stated objectives of applicable statutes and which would minimize any significant economic impact of Phase 2 rules on small entities.

XII. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as any regulatory action (including an advanced notice of proposed rulemaking) that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Although the Agency is uncertain at this time of what the annual monetary or material effect of a future Phase 2 rulemaking might be, EPA has reason to estimate that such regulatory action might result in an annual effect on the economy of $100 million or more, or adversely affect in a material way a sector of the economy. EPA will further address the requirements of Executive Order 12886 in developing the proposed and final Phase 2 rule.

This Advance Notice was submitted to OMB for review as required by Executive Order 12866. Any written comments from OMB or other federal agencies and any EPA written response to OMB or other federal agency comments are in the public docket for this document.

List of Subjects in 40 CFR Part 90

Environmental protection, Administrative practice and procedure, Air pollution control, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: March 19, 1997.

Carol M. Browner,

Administrator.

Appendix A to the Preamble—Handheld Engines Statement of Principles

Statement of Principles for the Regulation of Exhaust Emissions From Handheld Spark-Ignited Engines at or Below 19 Kilowatts

Preface

The Environmental Protection Agency (EPA) agrees to draft a preamble and proposed rule that will include, to the maximum extent possible, consistent with EPAs legal obligations, the agreements contained in this statement of principles (SOP). This SOP applies to new spark ignited engines at or below 19 kW for use in handheld applications. The draft preamble and proposed rule will form the basis of a notice of proposed rulemaking (NPRM) for Phase 2 emission standards for all new nonroad spark-ignition engines at or below 19 kilowatts subject to the exclusion and exemption provisions contained herein. The signatories have reached agreement on many of the basic issues that will apply to handheld engines in Phase 2, such as the pollutants to be regulated, the emission standards, phased in effective dates, and a test program for certain non-regulated pollutants. The signatories agree to support a program that promotes technological advancement of durable engine and emission control technology. The signatories agree that the program should strive to produce verifiable reductions in engine emissions over the useful lives of the engines and that the responsibility for verification testing is most appropriately placed with the manufacturers. Consequently, the signatories have reached conceptual agreement on issues such as production line and in-use testing, and the implementation of a technology review designed to assess the appropriateness of Phase 3 emission standards. However, a significant number of important, unresolved issues remain. To the extent possible in the time remaining prior to publication of the NPRM, the parties will continue their efforts to reach agreement on these unresolved issues. All outstanding issues will be addressed during the rulemaking process. Each party to this SOP, other than EPA, agrees not to file negative comments on the NPRM as to the agreed upon provisions included in this SOP. If the NPRM includes the agreements contained in this SOP, each party to the SOP other than EPA agrees to file a memorandum in the docket to that effect and to acknowledge that it participated in negotiating the SOP. Each party, other than EPA, agrees not to take any action to inhibit the adoption in the final rule of the agreed-upon provisions included in this SOP. Each party, other than EPA, agrees not to challenge in court the agreements in this SOP which are included in a final rule. If the final rule is challenged in court, and if the final rule and preamble include the agreements contained in this SOP, each party, other than EPA, agrees to file a memorandum informing the court that it participated in negotiating the agreements contained in this SOP.

Statement of Principles

The signatories agree to the proposal of a single Notice of Proposed Rulemaking to regulate the exhaust emissions of small spark ignited engines at or below 19 kW. The emission standard related provisions applicable to small handheld engines (Effective Dates, Engine Classifications, Emission Standards, PM and Toxics Test Program, Test Procedures, Voluntary Incentive and Recognition Program, Certification: Averaging, Banking and Trading) will be based upon the items listed below. The non-emission standard related provisions of the proposed rule (Definitions, Applicability, Certification Program, Production Line Testing, In-Use Program, Imports, Dealer Responsibility, Technology Review/ Phase 3, and Tampering) shall be identical for all engines subject to the rule, to the extent possible and provided modifications are not necessary due to differences in emission standard related provisions. Where such provisions are proposed that will not be identical for all engines, the signatories will be consulted during development of any such proposal and will have full opportunity to comment after proposal. Items not addressed in this SOP will be developed during the rulemaking process.

A. Definitions

The signatories agree that, to the greatest extent possible, terms defined in the Phase 1 rule shall have the same meanings in the Phase 2 rule. Additionally, the signatories agree to define the following terms necessary to implement provisions described in this SOP.

In-use credit: An emission credit derived from the difference between the mean in-use emission results of a

regulated pollutant, or pair of pollutants in the case of HC+NO_X, and the applicable emission standard.

Technology subgroup: A group of engine families from one or more manufacturers having similar size, application, useful life and emission control equipment; e.g., Class III, residential, non-catalyst, two stroke, engine used in generator set applications.

B. Applicability

1. This statement of principles is applicable to handheld equipment and spark ignited engines used in handheld products subject to the following exclusions. These exclusions, to the extent described in the Phase 1 rule, apply as described in that rule.

a. Engines used to propel marine vessels.

b. Engines used to propel any motor vehicle as defined in section 216 of the Clean Air Act including motorcycles.

c. Engines used to propel aircraft.

d. Engines used to propel recreational vehicles.

e. Engines used solely for competition.

f. Engines used exclusively in emergency and rescue equipment where no certified engines are available to power the equipment safely and practically.

g. Engines used to power stationary sources regulated by a federal New Source Performance Standard promulgated under section 111 of the Act.

h. Engines that are both: Used in underground mining or in underground mining equipment; AND are regulated by the Mining Safety and Health Administration (MSHA) in 30 CFR parts 7, 31, 32, 36, 56, 57, 70 and 75.

i. Engines produced for export.

2. Exemptions will be provided as in the Phase 1 rule for uncertified engines used for purposes of research, investigations, demonstrations or training.

3. Exemptions will also be provided as appropriate for reasons of national security. An automatic national security exemption will be proposed, similar to that in the marine SNPRM (61 FR 4618) for nonroad engines and equipment that exhibit combat features, i.e. armor and or weaponry.

C. Effective Dates

The standards will be phased in on a percentage of production basis as shown below. The percentages listed below represent the minimum percentage of an individual manufacturer s total production of nonexempt, nonexcluded handheld engines (not percentage of engine families) destined for U.S. use that must be certified to all applicable standards and comply with all applicable related emission requirements; e.g. labeling, warranty, production line and in-use testing, etc.

TABLE 1.—PHASE IN PERCENTAGES FOR ALL HANDHELD STANDARDS

Model year	Production (percent)
2002	20
2003	40
2004	70
2005	100

D. Engine Classifications

Engine classification will be based upon engine displacement as in the Phase 1 rule with Classes I and II being reserved for nonhandheld engines.

TABLE 2.—HANDHELD ENGINE CLASSIFICATIONS

Engine class	Application	Displacement in cubic CM
III	Handheld	Less than 20.
IV	Handheld	Greater than or = 20, less than 50.
V	Handheld	Greater than 50.

E. Emission Standards

1. The percentages of engines listed in Table 1 must meet the standards listed in Table 3 for their useful lives. These standards are predicated upon a multiplicative deterioration factor (df) of 1.0 and useful lives of 50 hours for residential handheld engines and 300 hours for commercial handheld engines. Manufacturers will declare at the time of certification whether an engine family is ''commercial'' or ''residential''. The definitions of ''commercial'' and ''residential'' will be determined in the rulemaking process.

TABLE 3.—HC+NO_X AND CO STANDARDS FOR HANDHELD ENGINES

Engine class	HC + NO_X (g/kW/hr)	CO (g/kW/hr)
III	210	805
IV	172	805
V	116	603

2. Two-stroke engines used to power snowthrowers will be subject to the handheld standards at the manufacturer's option.

3. Engines used exclusively in wintertime-only applications, such as snowthrowers or ice augers, need not certify to or comply with the HC+NO_X standard at the option of the manufacturer.

4. A provision will be included to provide relief to small volume equipment manufacturers to permit the use of Phase 1 engines for a certain period of time when they can make a showing that no certified Phase 2 engine is available with suitable physical or performance characteristics to power a piece of equipment in production prior to 2002.

F. PM and Toxics Test Program for Class III, IV, and V Engines

The Phase 2 regulations adopted for handheld engines pursuant to this SOP will not establish small engine emission standards for particulate matter or toxic air contaminants listed under section 112(b) of the Clean Air Act. To evaluate the levels of these pollutants from Phase 2 handheld engines, the signatories agree that a particulate matter and toxics test program will be conducted. Elements of a PM and Toxics Test Program for Class III, IV, and V engines include:

(1) PPEMA, in cooperation with EPA, commits to a test program to evaluate and quantify emissions of particulate matter and toxics including, but not limited to: formaldehyde, acetaldehyde, benzene, toluene, and 1,3 butadiene.

(2) Testing under this program will be conducted on Phase 2 technology handheld engines.

(3) Testing under this program will be of sufficient magnitude to represent the range of new basic technologies used to comply with the Phase 2 small engine standards. CARB test data may be used where appropriate.

(4) No enforcement will be tied to this testing program.

(5) Test data will be made available promptly to EPA for distribution to other interested parties.

(6) Testing will be conducted at EPA, industry, and/or independent facilities.

G. Test Procedures

The 2-mode steady state Cycle C test procedure will apply to all Class III, IV, and V engines as it did in the Phase 1 rule except that the modal weighting factors for the Phase 2 rule, will be 0.85 for Mode 1 (100% max. power) and 0.15 for Mode 2 (idle mode).

A large number of unresolved issues regarding the Phase 2 test procedure still exist. The issues include: testing precision, calibration requirements, data sampling requirements, long term data storage, requirements for natural gas and liquefied petroleum gas, and requirements for ambient test cell conditions. The signatories agree these

could be resolved during the rulemaking process.

H. Certification Program

A simplified version of the Phase 1 Certification Program will be provided to the extent possible and appropriate. The following outlines the elements of the program:

(1) Streamlined annual certification application.

(2) Coordination with the California Air Resources Board (CARB).

(3) Possible automation of submittal.

I. Production Line Testing

The signatories agree that an efficient, flexible Production Line Testing (PLT) program, designed to verify production of complying engines is appropriate. At the same time, the signatories recognize that when clear compliance is shown for a family, it is reasonable to reduce or curtail testing. The basic components of a PLT program are listed below. Additional specific details of the PLT program will be developed through the rulemaking process.

(1) Self-auditing plan, covering all engine families each model year in a statistically valid manner.

(2) The Cumulative Sum (CumSum) procedure will be proposed in the NPRM. Alternate test schemes may be proposed by industry. The signatories agree it is desirable to avoid a multiplicity of individual, diverse test schemes, but recognize that there may be situations where a single test scheme is not appropriate for specific engine families or companies.

(3) Manufacturers will randomly select engines from each engine family from the production line without regard to engine configuration.

(4) California audit test data is acceptable to be used as input into the statistical scheme to determine compliance for 50-state engine families.

(5) Production line testing will employ the full Federal Test Procedure (FTP). EPA will seek comments in the NPRM on the appropriateness of alternative test procedures that preserve the enforceability of the PLT program.

(6) All exhaust pollutants for which standards are promulgated in the Phase 2 rule will be tested and resultant test data will be reported to EPA quarterly.

(7) If an engine family exceeds the test program determinant of exceedance, the manufacturer will provide appropriate data to EPA within a certain number of days. EPA will review the data and other pertinent information and may notify the manufacturer that it intends to suspend or revoke the manufacturer's certificate of conformity in whole or in part for that engine family.

(8) The suspension or revocation of a certificate of conformity shall not occur before thirty (30) days after notification from EPA of its intent to suspend or revoke. Hearing procedures by which a manufacturer may contest the suspension or revocation of a certificate will be provided similar to those in the Phase 1 Selective Enforcement Auditing (SEA) regulations. The certificate is automatically suspended with respect to any individual engine that fails to comply with applicable standards during this testing process.

(9) During this thirty (30) day period described in paragraph I 8 above, EPA will maintain a dialogue and coordinate with the manufacturer to facilitate the approval of the required production line change in order to eliminate the need to halt production, if possible.

(10) EPA will approve or disapprove the manufacturer's production line change within fifteen (15) days of receipt. Disapproval of the manufacturer's production line change could result in certificate suspension or revocation, with hearing procedures as described above. If EPA does not respond to the manufacturer's proposed change within fifteen (15) days of receipt, the proposed change will be deemed acceptable to EPA.

(11) The manufacturer, in concert with EPA, will then determine the number of non-complying engines which have been introduced into commerce.

(12) EPA may conduct Selective Enforcement Audits as a backstop ; for example, when it receives evidence of improper testing procedures or evidence of a non-conformity that was not being addressed in the normal Production Line Testing process. Routine or random SEAs shall not be a part of the final program.

J. In-Use Program

1. In-Use Testing

The signatories agree that an efficient, flexible testing program designed to ensure and verify compliance of in-use engines with applicable emission standards is appropriate. The signatories agree to establish an in-use testing program with basic components as follows. Additional specific details of the program will be developed through the rulemaking process:

(a) In-use testing will employ the full Federal Test Procedure(FTP).

(b) All exhaust pollutants for which standards are promulgated in the Phase 2 rule will be tested.

(c) EPA will select a portion of each manufacturer's engine families to be in-use tested each year (up to 25% of families). Manufacturers may elect to conduct testing of additional families, and to test more frequently. Additional in-use credits may be generated or required from such testing.

(d) The in-use testing scheme will employ a method to increase the number of engines to be tested when individual engine failures occur, up to a maximum of ten engines per family per year. Except for small volume families, the minimum number(n) of engines tested will be four.

(e) All in-use test results will be reported electronically each quarter to EPA. Reporting of data which suggests an emission exceedance (mean ≤ standard) will occur within a certain number of days of the last test.

(f) EPA will have the right to spot check a manufacturer to evaluate testing practices. EPA will provide reasonable notice of such checks unless it has evidence of improper test practices.

(g) EPA may conduct its own in-use testing, including testing of properly maintained consumer owned engines, through the full useful life of the engines for enforcement purposes.

(h) Bench aging of in-use engines will be permitted only for technology subgroups where correlation between field aged and bench aged engines can be shown (see J2).

2. Bench Aging Correlation

The signatories agree that bench aging is an appropriate way to obtain in-use emission data from small spark ignited gasoline engines, provided that the bench aging process can be shown initially and periodically to correlate with field aging. Consequently the signatories agree to the basics of a bench aging correlation strategy as follows. Additional specific details will be developed in the rulemaking.:

(a) An initial bench-aging/field-aging correlation program will be conducted by manufacturers under EPA guidance. A portion of the field engines will be aged in individual usage or fleets where the manufacturer does not carry out or exercise control over the engines maintenance, or limit their usage such that the engines are no longer used in a way that is representative of typical in-use engines.

(b) Emission testing will employ the full Federal Test Procedure (FTP).

(c) All exhaust pollutants for which standards are promulgated in the phase 2 rule will be measured for correlation purposes.

(d) Engines will be aged to the full regulatory useful life on the bench and in the field except that commercial engines may be aged to 75% of the full

regulatory useful life for correlation testing purposes only.

(e) Correlation and sample sizes will be determined as appropriate.

(f) Engine manufacturers will conduct a correlation spot check program periodically of each technology subgroup to verify that emissions from bench-aged engines correlate with emissions from field-aged engines.

3. In-Use Credit Program

The signatories agree that reasonable means must exist to address emission exceedances of in-use engines, including those exceedances of in-use engines identified by Production Line Testing, that: (1) provide an incentive to manufacturers to build emission-durable engines; (2) can be implemented practically; (3) provide an incentive to perform additional in-use testing; (4) offset additional emissions that occur as a result of the exceedance of the standard; and (5) are not unduly burdensome to the manufacturers. The signatories agree that a mandatory recall program does not meet these five criteria, although a manufacturer may conduct a voluntary recall in lieu of remedying emission exceedances through the in-use credit program or alternative methods provided in this SOP. The signatories believe that successful implementation of the in-use credit program and the other alternatives described herein will provide a comprehensive remedy to address in-use emission exceedances so that EPA will not, in practice, order mandatory recall of Phase 2 certified engines. Additional specific details of the in-use credit program will be developed during the rulemaking process:

(a) In-use credits generated or required will be based on an engine family's in-use emission level relative to its applicable standard, as determined from the In-use Testing Program.

(b) A multiplicative factor will be used to adjust credits earned based on sample size.

(c) In-use credits will be used at a higher rate than the in-use credits were generated.

(d) In-use credits will have an unlimited life during the Phase 2 program.

(e) For credit computational purposes, U.S. sales figures will be used.

(f) In-use credit banking and trading is allowed, but trading may be limited between categories of engines.

(g) All credit calculations indicating surpluses and deficits will be reported electronically at the conclusion of in-use testing for that model year.

(h) An appropriate in-use credit formula will be developed in the rulemaking to account for the different power ratings of engines and the different regulatory useful lives of residential and commercial engines.

(i) In the case of in-use testing of carry-over engine families, and in the absence of other applicable test data, the test results from one model year will be assumed to apply to four years worth of production: the model year tested, the next model year and the two previous model years. In-use credits will be generated or required, as appropriate.

4. Alternative Methods to Address In-Use Exceedances of Standards

The signatories agree that the primary method for manufacturers to address in-use exceedances of standards will be applying credits generated through the in-use credit program. If the manufacturer has insufficient in-use credits, it should first investigate the possibility of purchasing credits through available sources. However, appropriate alternative methods will be considered. Manufacturers will be allowed to implement all appropriate alternative methods prior to EPA making a determination of substantial nonconformity. EPA will make a determination of substantial nonconformity only when use of in-use credits and/or appropriate alternative methods do not adequately address the exceedance. Alternatives should meet the following criteria:

(a) Alternatives must have a nexus to the emission problem caused by the subject engine family.

(b) The alternative must cost substantially more than foregone compliance costs and consider the time value of foregone costs.

(c) Alternatives must offset at least 100% of the exceedance of the standard, subject to the other listed criteria.

(d) Alternatives must consider the degree of environmental harm caused by the exceedance.

(e) Alternatives must consider the time value of the foregone environmental benefit resulting from the exceedance.

(f) Alternatives will be subject to a cost cap that will be established in the rulemaking process.

(g) Alternatives may not include measures the manufacturer planned to undertake irrespective of the need to address the exceedance.

(h) Alternatives must be able to be implemented expeditiously and completed in a reasonable time.

(i) Alternatives must not force the manufacturer out of business.

(j) The implementation potential of an alternative must be considered.

K. Imports

The Imports program will be similar to the program for Phase 1. Essentially, this program bars the importation of uncertified, regulated small engines except that a one-time personal use exemption will permit the importation of three non-conforming small engines (or pieces of equipment containing such engines) for personal use but not for purposes of resale.

L. Voluntary Incentive and Recognition Program for Handheld Engines

A voluntary program will be created to identify handheld engines that have $HC+NO_X$ certification levels substantially below the Phase 2 standards. Manufacturers who participate in this program will be allowed to display a symbol (yet to be determined) on their products, packaging, or advertisements indicating that the engine qualifies for the program. The signatories recognize that further specific details of the program need to be formulated, but they agree on certain basic concepts of the program. To qualify for the program, certified engine emission levels must be a certain percentage below the Phase 2 $HC+NO_X$ standard. EPA and industry will agree on the administration of the program. In addition, manufacturers will receive a waiver on production line testing if an engine family achieves a certification level a certain percentage or more below the $HC+NO_X$ standard. The two percentages referenced in this paragraph may be different.

M. Certification: Averaging, Banking and Trading (ABT)

No certification ABT program will be created for handheld engines. In-use credits generated in the in-use ABT program are not applicable for use in certification.

N. Dealer Responsibility

The signatories agree that, except as noted in this paragraph, these regulations will not impose any obligation on the dealers or repair facilities to bring into compliance any products found to have been tampered, nor will dealers or repair facilities be required to report defects to EPA. Dealers and repair facilities will be prohibited from tampering or causing tampering, but, are not prohibited from working on tampered products. Dealers and repair facilities will not be required to restore products submitted to them with tampered emission controls to certified configurations unless the repair

involves the component or system that has been tampered. In that case, dealers and repair facilities will be required to restore the system to a certified and properly functioning configuration but will not be required to demonstrate that the products comply with applicable emission standards. In repairing or replacing emission control parts and systems, dealers and repair facilities may use parts represented by their manufacturers to be functionally equivalent to original equipment (OE) parts.

O. Technology Review/Phase 3

The signatories recognize that technological advances and/or cost reductions may occur after promulgation of the Phase 2 rule that could make greater, but still cost-effective reductions feasible in handheld emission levels. At the same time, the signatories agree that industry requires certainty and stability for its business planning. Without such certainty, industry would not commit to the investment that these standards will require, and without such certainty and stability these investments might never be recouped. EPA will commit to conducting a technology review and publishing a Notice of Proposed Rulemaking in 2001 announcing any intended amendments to the standard levels or other program elements or EPAs desire to maintain the existing standards or program. The final rulemaking will be completed by 2002 and, if Phase 3 standards are adopted, they will be phased in on a percentage basis and over a period of time similar to Phase 2, beginning no earlier than model year 2007. This schedule is intended to provide a minimum five year period between the implementation of Phase 2 standards and the implementation of any Phase 3 standards to aid manufacturers in recouping their investments in Phase 2 technology.

P. Tampering

The signatories agree that the tampering prohibitions from Phase 1 shall be adopted in Phase 2 except that a provision will be added to permit the removal, subject to approval by EPA, of emission control devices or elements of design that interfere with the safe and/or practical use of emergency and rescue equipment.

Appendix B to the Preamble—Nonhandheld Engines Statement of Principles

Small Nonhandheld Spark-Ignited Nonroad Engine Statement of Principles

Members of the small (19 kilowatt and below) nonhandheld spark-ignited (SI) nonroad engine industry and the U.S. Environmental Protection Agency (EPA) (collectively, the Signatories) recognize the significant contribution made by small nonhandheld SI nonroad engines to the emissions inventory that leads to ozone concentrations in nonattainment areas. This recognition prompted the Signatories, along with State and environmental organization representatives, to work together to quickly put into place a first phase of regulations taking effect with the 1997 model year. The Phase 1 regulations achieve significant reductions in ozone-forming pollutants from these engines by setting emissions standards to control hydrocarbons (HC) and oxides of nitrogen (NO_X).

Nevertheless, the Signatories recognize that further control of HC and NO_X from these sources beyond the Phase 1 levels is achievable through technology that will be cost-effective and feasible in future model years. They also recognize the need for stability and predictability to be designed into a regulatory program that achieves these additional reductions.

The Signatories also recognize that it is important to maintain a strong and competitive industrial base as EPA implements its responsibilities to protect public health and welfare and the environment.

This Statement of Principles (''SOP'') accomplishes both environmental and business objectives, ensuring cleaner air in a manner which is both realistic for industry and responds to environmental needs. The Signatories agree that the aggressive package of emission standards and implementation schedules contained in this SOP accomplishes the environmental benefit of further significantly reducing in-use emissions of ozone forming pollutants from nonhandheld small SI nonroad engines. The Signatories further agree that the package of provisions contained in this SOP reflects a clear, stable, long-term control program for this source which will encourage industry to more effectively incorporate environmental objectives into their business planning.

With this SOP, the small nonhandheld SI nonroad engine industry has stepped forward to work as a partner with EPA to bring about cleaner air. States will see significant additional reductions in the emission inventory from these sources beyond those achieved by the Phase 1 rule that they can rely upon in meeting their responsibilities to attain and maintain the national ambient air quality standard (NAAQS) for ozone. Consumers will benefit from improved engine technology, which in addition to improving air quality will likely also burn less fuel, require less maintenance, be more reliable, and last longer.

This SOP outlines the joint understanding of all Signatories that will provide the basis for issuance by EPA of an Advanced Notice of Proposed Rulemaking (''ANPRM'') and a Notice of Proposed Rulemaking (''NPRM'') which would be consistent with the points outlined in this document. EPA intends to issue the ANPRM in early 1997, the NPRM in the Fall of 1997, and to promulgate a final rule by the Fall of 1998.[1] Based on the currently available information, the Signatories believe that the standards contained in this SOP represent the most stringent standards achievable considering cost and other appropriate factors in the time frame of this Phase 2 program. However, this SOP does not change the importance of EPA demonstrating the need for the standards described below and EPA's obligations to meet the criteria of the Clean Air Act in finalizing any rule, including complying with all applicable rulemaking procedures.

1. Scope

This SOP addresses a Phase 2 program that will apply to Class 1 and Class 2 nonhandheld SI nonroad engines at or below 19 kilowatts (25 horsepower). These classes are distinguished from each other primarily in terms of engine size (displacement), cost, and the applications in which they are used.

Class 1 engines, which have displacements of less than 225 cc, are typically used in relatively inexpensive applications such as walk-behind lawnmowers, edgers and trimmers, and other lawn care equipment. The vast majority of Class 1 engines produced for use in the United States use side-valve (SV) technology.

Class 2 engines, which have displacements greater than or equal to 225 cc, are typically used in more expensive applications such as riding mowers, lawn tractors, tillers, generator sets, and many other applications. Class 2 engines are often used in commercial applications and, as a result, tend to have much higher hours of use annually than Class 1 engines. Approximately

[1] EPA is currently seeking appropriate changes to a court order to conform to this SOP.

one third of the Class 2 engines sold in the United States today utilize over-head valve (OHV) engine technology.

2. Technology Forcing and In-Use Goals

The two primary goals for the Phase 2 program for small nonhandheld SI nonroad engines reflected in this SOP are 1) a shift to cleaner, more emissions durable technology as quickly as feasible, considering cost and lead time factors, and 2) assurance that emission reductions are achieved in-use.

The Signatories acknowledge that the program described here is intended to meet the clean technology goal and reflect a shift to clean more durable technology on an aggressive schedule by: 1) ensuring that manufacturers shift their production of larger (Class 2) nonhandheld engines completely to over-head valve engine or comparably clean and durable technology (referred to herein as ''OHV emissions performance'') by model year 2005, and in the interim attain a 50 percent shift to OHV emissions performance by model year 2001, 2) establishing standards for Class 1 engines that reflect cost-effective controls on SV engine technology, and 3) assessing the environmental, marketplace and other economic factors associated with high-volume OHV technology for smaller (Class 1) nonhandheld engines through an OHV demonstration program.

The Signatories further agree on the principle that the emission benefits of the program must be realized in-use. As a result, this SOP contains provisions to ensure that the engines produced by manufacturers are emissions durable over their useful lives while at the same time using compliance mechanisms that are not unduly burdensome.

3. Standards and Effective Dates

In order to achieve the goals described in section 2 above, the Signatories agree to the following provisions.

a. $HC+NO_X$

The Signatories believe that the standards and effective dates shown in Table 1 below will achieve the technology forcing goal described in section 2 above.

TABLE 1.—$HC+NO_X$ STANDARDS AND MODEL YEAR EFFECT DATES

	$HC+NO_X$	NMHC+ NO_X (optional standard for natural gas fueled engines only)	2001	2002	2003	2004	2005
	g/kw-hr (g/bhp-hr)		Assumed % of Sales				
Class 1	25.0 (18.7)	23.0 (17.2)	100				
Class 2	24.0 (18.0)	22.1 (16.5)	50	37.5	25	12.5	0
	12.1 (9.0)	11.3 (8.4)	50	62.5	75	87.5	100

Note to table: The actual corporate average emission standards for Class 2 engines, based on the standards applicable at the 250 hour useful life category are, in g/kw-hr:

2001	2002	2003	2004	2005
18.0	16.6	15.0	13.6	12.1

A manufacturer's actual corporate average could be different depending on its mix of 250, 500, and 1000 hour useful life engines.

The Class 1 level of 25 g/kw-hr is expected to achieve meaningful emission reductions from these engines beyond what is required for the Phase 1 rule, while at the same time allowing the continued use of SV engines in the market for this class. The Signatories agree to the importance of the OHV Demonstration Program for Class 1 to investigate the potential for increasing penetration of OHV technology in Class 1 (see section 3(g) below).

For Class 2 engines there is a dual standard: one based on SV technology (which is expected to be phased-out), and one based on OHV technology. The OHV technology based standard (12.1 g/kw-hr for 250 hour engines) would be phased-in on a percentage of production basis as shown in Table 1. The standard is based on the projected capabilities of emissions-optimized durable OHV engines. The standard assumes an assigned multiplicative deterioration factor (DF) of 1.3 at 250 hours for OHV engines. EPA will propose that manufacturers would be allowed to establish their own DFs for their full product line within a useful life category for the 500 and 1000 hour useful life categories. The proposal will address in a reasonable and practical manner the kind of data required to determine the DFs, the amount of in-use testing required to verify the DFs, and the appropriateness of reserving certification credits pending verification of the DFs through in-use testing. During the rulemaking process EPA will consider the appropriateness of allowing manufacturers to establish their own DFs for their full product line within the first useful life category (250 hours).

Recognizing that manufacturers' testing capacities may be substantially constrained during the transition to fully phased in standards, manufacturers choosing to establish their own DFs for the 500 and 1000 hour Class 2 useful life categories may base the DF on good engineering judgment, demonstrated to the satisfaction of the Administrator, provided that, in a reasonable period after model year 2005, the manufacturer shall verify their good engineering judgement using appropriate data. The proposal will address in a reasonable and practical manner the kind of data required to verify the DFs. In the event that a DF must be adjusted, the manufacturers shall offset any emission shortfalls resulting from a previous low DF. The use of credits from either Class 1 or Class 2 engines would be one means to offset any such shortfalls.

The Signatories agree that one goal of the SOP is to encourage manufacturers to design and build engines that are emissions durable over their actual useful lives, and to encourage manufacturers to voluntarily certify their engines to longer useful life categories when they are intended for longer hours of operation in-use (See section 3.b.). The Signatories recognize that, depending on the emission characteristics of an engine, at longer useful life hours the emission standard may be more difficult to meet. In addition, it is the Signatories' goal to make sure the emission standards encourage manufacturers to voluntarily certify to longer useful lives those engine designed to be operated and durable for longer useful lives.

EPA will propose, based on available data, optional assigned DFs for the 500 and 1000 hour useful life categories. The proposed assigned DFs at the longer useful life categories would not be lower than 1.3. Furthermore, it is anticipated that longer useful life engines would not have an assigned DF greater than 1.5 at 1000 hours. Consequently, the Signatories expect that the proposed assigned DFs for longer useful life engines would be between 1.3 and 1.5 at 1000 hours.

Finally, the Signatories agree that EPA will propose $HC+NO_X$ standards associated with longer useful hours to reflect the proposed assigned DFs discussed above.[2] However, in no case will the proposed standard be lower than that associated with an assigned DF of 1.3 or higher than that associated with an assigned DF of 1.5.

If as a result of the field durability demonstration program described under section 4(d), EPA later determines that the assigned DFs need to be adjusted, then EPA would initiate a rulemaking to adjust the DFs and the standards accordingly.[3] Any such rulemaking would only apply prospectively and would be undertaken only if data suggest that measured DFs are significantly different from the assigned DFs as set forth in this SOP.

The engines for which the manufacturer determines its own DFs would be included in the field durability demonstration program. However, data from those engines would not be included in determining whether the assigned DFs need to be adjusted under the field durability program.

The Signatories acknowledge that it may be appropriate to create a separate engine class with different $HC+NO_X$ standards for very small displacement nonhandheld engines. To that end, EPA will consider the need for such a class as part of the rulemaking process.

b. Useful Life

The Signatories recognize that small nonhandheld SI nonroad engines are used in a wide range of applications with annual and seasonal hourly use varying from low in some residential applications to high in some commercial applications. The Signatories further recognize that the greater the use during the ozone season of an engine the greater its importance in terms of air quality impacts.

The Signatories agree to the desirability of a mechanism that allows manufacturers to select the useful life category for a given engine application. Selection of the useful life category would be solely at the manufacturer's discretion, and the engine's label and averaging, banking and trading (ABT) credit calculation would reflect the manufacturer's choice.

For the Phase 2 program, the useful life categories for Class 1 and Class 2 engines would be as follows:

TABLE 2.—USEFUL LIFE CATEGORIES (HOURS)

	Category C	Category B	Category A
Class 1	66	250	500
Class 2	250	500	1000

The useful life category corresponds to the hours of operation to which the engine is subject to applicable emissions standards. For purposes of the engine label, the useful life will be referred to as the emissions compliance period. The engine label will indicate that the engine is built to conform with EPA emissions regulations for the emissions compliance period, in hours, selected by the manufacturer (e.g., 250 hours).

As an option, the engine label will indicate that the engine is built to conform with EPA emissions regulations for the emissions compliance period, by category, selected by the manufacturer (e.g., Category C). The label will refer to the appropriate owner's manual for a description of the emissions compliance period. As part of this option, EPA will propose that engine manufacturers demonstrate during the certification process that information explaining the meaning of the category designation will be provided to the ultimate purchaser.

c. CO

The Phase 1 carbon monoxide (CO) standard for Class 1 and Class 2 engines will remain in place for the Phase 2 program, but will be adjusted to 610 g/kw-hr to reflect engine deterioration. In addition, EPA will have authority to waive the reporting requirement for CO at the Administrator's discretion.

d. Wintertime Products

The exemptions from the $HC+NO_X$ standards contained in Phase 1 for engines used only in wintertime products would continue for Phase 2.

e. Certification Test Fuel

The Signatories agree that no changes in the certification test fuel specifications will be proposed from the current Phase 1 requirements.

f. Averaging, Banking, and Trading (ABT)

Compliance with the $HC+NO_X$ standards above would be based upon a corporate average with manufacturers also having the ability to bank and trade emission credits. The Signatories agree that such an ABT program will help assure that the aggressive schedule set out above will be cost-effective and technologically feasible.

Credit calculations would be based upon sales weighted corporate average emissions from a manufacturer's engines on an annual basis, using family emission limits (FELs) and useful life hours selected by the manufacturer. While the Signatories believe that the phase-in for percentage of production shown in Table 1 for Class 2 engines will occur, the flexibility provided under the ABT program will allow some variation from the expected percentage of production phase-in. Regardless of this variation, manufacturers of Class 2 engines certified to the 250 hour useful life category would be required to achieve a standard of 18.0 g/kw-hr, 16.6 g/kw-hr, 15.0 g/kw-hr, and 13.6 g/kw-hr in model years 2001, 2002, 2003, and 2004, respectively, on a sales weighted average across their Class 2 production,[4] recognizing that through the ABT program credits may be used to meet the standard. EPA will propose rules addressing the procedures and requirements for determining the number of engines that correspond to an engine family and model year for purposes of credit calculations. The procedures and requirements will take into account the unique characteristics of the small nonhandheld SI nonroad engine industry, and will be designed to limit the burden of tracking engine production and sales to no more than the minimum needed to establish fair and accurate credit accounting. In addition, EPA will consider during the rulemaking process the appropriateness of using production-based instead of sales-based accounting for credit accounting purposes.

In order to assure that the ABT program adequately encourages the transition to cleaner, more durable technology and that the ABT program fulfills its intended function, cross class averaging, banking, and trading will

[2] The proposed standards will be based on the ratio of the assigned DFs for these longer useful life engines at the longer time periods compared to the 1.3 assigned DF at the 250 hour useful life category (e.g., 1.5/1.3×12.1=14.0).

[3] For example, the standard would be 14.0 g/kw-hr if the DF was adjusted to be 1.5, whereas the standard would be 11.2 g/kw-hr if the DF was adjusted to be 1.2.

[4] A manufacturer's actual corporate average could be different depending on its mix of 250, 500, and 1000 hour useful life engines.

only be allowed under two scenarios; provided that the affected manufacturer's Class 2 engine production is either all OHV technology or it meets or exceeds the assumed OHV emissions performance production phase-in schedule for Class 2 engines in Table 1. One scenario where cross class ABT would be allowed is for credit exchanges from credit generating Class 2 engines to credit using Class 1 engines. The other allowable scenario is credit exchanges between Class 1 and Class 2 engines to offset emission shortfalls identified in to the programs outlined in Section 4(c) below or as a result of an adjustment to manufacturer determined DFs as discussed in section 3(a).

In order to provide an incentive to accelerate the introduction of cleaner technologies, the Signatories agree that the proposal will contain provisions for generation of credits prior to the 2001 model year (i.e., early banking). Manufacturers may begin to generate such early credits two model years before the standards set forth in this SOP take effect. Early banking credits may only be generated for engines certified below the 12.1 g/kw-hr $HC+NO_X$ emission level at the 250 hour useful life category for Class 2 engines (or the applicable standard for the 500 and 1000 hour useful life categories), and below 16.0 g/kw-hr $HC+NO_X$ for Class 1 engines. In addition, such early credits could only be banked where a manufacturer certifies and complies with the 2001 standard for it's entire product line in a given class. Early banking credits cannot be used to defer the assumed OHV emissions performance production phase-in schedule for Class 2 engines in Table 1.

The Signatories further agree that credits generated under the Phase 2 program will have an unlimited life when used for purposes of compliance with the standards specified in this SOP. EPA will consider the appropriate life of Phase 2 program credits in connection with other regulatory programs in which those credits could be used.

g. Class 1 OHV Demonstration Program

The Signatories recognize the important role SV engines currently play in the Class 1 market and the significant economic impediments to the widespread introduction of higher cost, cleaner technologies such as OHV in this class. Nevertheless, the Signatories also recognize the desirability of investigating the potential to reduce the cost and increase the penetration of such technology in this class in order to maximize achievable emissions reductions from this industry.

As a result, in order to determine in a meaningful way the potential for increasing the penetration of cleaner, more durable technology in Class 1, EPA and certain manufacturers have entered into Memoranda of Understanding (MOUs) calling for an OHV demonstration program. The Class 1 OHV demonstration program is designed as an experiment to explore the consumer acceptance and feasibility of applying OHV technology to mass production Class 1 engines. The program would include a series of reports to EPA on the level of success, impediments encountered, market response, costs, emission rates, etc.

4. Compliance Assurance

The Signatories agree on the principle that the emission benefits of the Phase 2 program must be achieved over the lifetime of the engines. However, the Signatories also recognize the importance of minimizing to the extent possible the compliance burden associated with this program.

The Signatories agree that reasonable means must exist to address emission exceedences identified in selective enforcement audits (SEA) or production line testing (PLT). These means should: (1) provide an incentive to manufacturers to build emission-durable engines; (2) be practical to implement; (3) provide an incentive to perform accurate testing; (4) offset additional emissions that occur as a result of the exceedence of the standards; and (5) not be unduly burdensome to manufacturers. The Signatories agree that a mandatory recall program for Class 1 and 2 engines, modeled on traditional on-highway recall procedures, does not meet these five criteria, given the non-integrated nature of the nonhandheld outdoor power equipment industry and the consumer markets in which most of that equipment is sold. The Signatories agree that there are other, better means to encourage compliance with emission standards for these engines than mandatory product recalls (as discussed in section 4(c) below), and that the efforts of the industry and EPA should be devoted to assuring that engines will comply with applicable standards in-use before they leave the production facility and to taking any necessary actions as quickly as possible to assure good emission performance. Consequently, the proposal will not contain provisions for making compliance determinations on the basis of in-use testing or emission performance.

The Signatories agree that the combined package of provisions contained in this SOP strikes the appropriate balance between providing assurance of in-use emission performance and minimizing the burden to industry.

a. Class 1 Certification

Certification for Class 1 engines with SV technology or aftertreatment would continue as under Phase 1, except that certification engines would first be bench-aged to the number of hours selected as useful life (66, 250, or 500) to determine compliance with the FEL.

A manufacturer could propose a bench-aging schedule up to 48 months prior to the start of a model year for the engine family as projected by the manufacturer. EPA would accept or reject the proposed schedule within 90 days of submission. If EPA did not reject the schedule within 90 days, the manufacturer's proposed schedule would automatically be accepted.

Periodic correlation of bench-to-field testing would be demonstrated by the manufacturer. Such correlation would be established by a simple method such as determining the ratio of the calculated mean emission levels of bench-aged engines and field-aged engines. During the first five years the program correlation would be demonstrated every two model years, and every five model years thereafter (e.g., 2001, 2003, 2005, 2010, etc.). Any changes to the correlation ratio would apply prospectively only with appropriate lead time for the manufacturers.

As an option, instead of testing engines on the bench and demonstrating correlation, manufacturers could choose to test engines from the field with accumulated hours corresponding to the useful life category selected by the manufacturer (''field-aged certification'').

Certification for Class 1 OHV engines would continue as under Phase 1, except that a multiplicative assigned DF would be applied to new engine levels to determine compliance with the FEL for the 66 hour useful life category shown in Table 2. The Signatories agree that the assigned DF for Class 1 OHV engines will be 1.3 at 66 hours. Manufacturers would be allowed to establish their own DFs for their full product line within a useful life category for the 250 and 500 hour useful life categories. The proposal will address in a reasonable and practical manner the kind of data required to determine the DF, the amount of in-use testing required to verify the DF, and the appropriateness of reserving

certification credits pending verification of the DF through in-use testing. During the rulemaking process EPA will consider the appropriateness of allowing manufacturers to establish their own DF for their full product line within the first useful life category (66 hours). EPA will also consider the appropriateness of establishing optional assigned DFs for the 250 and 500 hour useful life categories. Any adjustment to the assigned DF would be made as set forth in Section 3(a) above, however, in the case of Class 1 engines the standard would not be adjusted.

b. Class 2 Certification

Certification for Class 2 engines with SV technology or aftertreatment would continue as under Phase 1, except that certification engines would first be bench-aged to the number of hours selected as the useful life (250, 500, or 1000) to determine compliance for certification purposes. During the transition to OHV emissions performance engines, some flexibilities to relieve testing burden would apply (see section 5).

A manufacturer could propose a bench-aging schedule up to 48 months prior to the start of a model year for the engine family as projected by the manufacturer. EPA would accept or reject the proposed schedule within 90 days of submission. If EPA did not reject the schedule within 90 days, the manufacturer's proposed schedule would automatically be accepted.

Periodic correlation of bench-to-field testing would be demonstrated by the manufacturer. Such correlation would be established by a simple method such as determining the ratio of the calculated mean emission levels of bench-aged engines and field-aged engines. During the first five years the program correlation would be demonstrated every two model years, and every five model years thereafter (e.g., 2001, 2003, 2005, 2010, etc.). Any changes to the correlation ratio would apply prospectively only with appropriate lead time for the manufacturers.

As an option, instead of testing engines on the bench and demonstrating correlation, manufacturers could choose to test engines from the field with accumulated hours corresponding to the useful life category selected by the manufacturer (''field-aged certification'').

Certification for Class 2 OHV engines would continue as under Phase 1, except that a multiplicative assigned DF would be applied to new engine levels to determine compliance with the FEL for the 250 hour useful life category shown in Table 2. The Signatories agree that the assigned DF for Class 2 OHV engines will be 1.3 at 250 hours. Manufacturers would be allowed to establish their own DFs for their full product line within a useful life category for the 500 and 1000 hour useful life categories. The proposal will address in a reasonable and practical manner the kind of data required to determine the DFs, the amount of in-use testing required to verify the DFs, and the appropriateness of reserving certification credits pending verification of the DFs through in-use testing. During the rulemaking process EPA will consider the appropriateness of allowing manufacturers to establish their own DFs for their full product line within the first useful life category (250 hours). EPA will propose based on available data optional assigned DFs for the 500 and 1000 hour useful life categories, as discussed in Section 3(a) above. Any adjustment to the DF and standard would be made as set forth in Section 3(a) above.

c. Production Line Compliance

The Signatories agree that reasonable testing to assure that production engines meet standards is appropriate and that two different approaches would be used to monitor production line compliance.

Under the first approach, a manufacturer would opt to conduct a manufacturer run Production Line Testing (PLT) program (including but not necessarily limited to CumSum) for all of their engine families. In this case, the Signatories agree that the SEA program would exist only for backstop purposes where evidence of improper testing or nonconformities not being addressed by the manufacturer's testing program was obtained by EPA. The Signatories agree that for manufacturers who conduct a PLT program under this approach, if an engine family fails its production audit by exceeding its FEL, the FEL for that family would be adjusted to the new FEL indicated by the production audit results for both past and future production where applicable. Similarly, if an engine family passes its production audit by achieving emissions below its FEL, the FEL for that family can be adjusted to the new FEL indicated by the production audit results for future production where applicable. Any deficit in corporate-wide emissions performance resulting from the FEL change would need to be retired by the end of the model year following the model year in which the production audit failure occurred on a one-for-one basis. Any deficit in corporate-wide emissions performance resulting from the FEL change that is not retired by that time can be retired in the following two model years on a 1.2 to one basis.

This PLT program will permit the manufacturer to perform additional testing beyond the minimum required by regulation. Any such additional test data can be used to limit the number of engines for which a manufacturer is liable if there is a failure in the PLT program.

A manufacturer must implement the PLT approach for a minimum of three consecutive model years and must notify EPA a minimum of one complete model year prior to the model year for which they are requesting to opt out. This timing restriction would not preclude a manufacturer from implementing appropriate changes to the design or scope of the PLT program from model year to model year. Furthermore, they cannot be carrying a negative credit balance at the time of opting out. Where a manufacturer fails the PLT audit for more than one engine family in a model year and the number of engines that are recertified to a new FEL as a result of the failed PLT audit exceeds 10 percent of the manufacturer's annual production, then the remedies for noncompliance under this option are no longer valid. Instead, the provisions under the SEA approach described below would apply.

Under the second approach, engines in the Phase 2 program would be subject to SEA as under the Phase 1 program. This approach would apply to manufacturers who do not conduct a PLT program under the first approach. The Signatories agree that appropriate remedies need to be implemented for failures of SEA resulting from testing new (e.g. zero-hour) engines. Such appropriate remedies must meet the criteria set forth in the second paragraph of Section 4 above. EPA is committed to designing remedies that will both preserve the environmental benefits of this program and minimize the burden on the industry. The proposal will therefore preserve for EPA adequate flexibility to address such failures on a case-by-case basis, so that EPA and the manufacturer may develop a response that achieves the goals noted above. Such a response might include, for example, a combination of measures such as mandatory PLT for appropriate time periods and portions of production, recertification of all or part of an engine family, and generation of credits to remedy the exceedences over an appropriate period of time. As discussed above in section 4, the Signatories agree that a mandatory recall program for Class 1 and 2 engines, modeled on traditional on-highway

recall procedures, does not meet the criteria for reasonable means to address emission exceedences identified in SEA or PLT programs, given the non-integrated nature of the nonhandheld outdoor power equipment industry and the consumer markets in which most of that equipment is sold. EPA will not revoke or suspend a certificate where a response that meets the goals noted above is designed and implemented in a timely manner (except in cases where a manufacturer desires to obtain a new certificate in which case the old certificate would be suspended to avoid the existence of two certificates for the same family).

d. Field Durability and In-use Emission Performance Demonstration Program for OHV Engines

The Signatories agree to the necessity of a Field Durability and In-use Emission Performance Demonstration Program to produce reliable data that verifies that the conclusions in this program with respect to the durability of OHV engines are accurate. The data collected under this program would be designed to provide a representative picture of actual in-use emissions, including representative age (hours), maintenance, and sales mix of engines in the field. Manufacturers would test a sufficient number of engines to be statistically meaningful. Individual manufacturers would supply test data to EPA. However, the test program could be jointly run on an industry-wide basis.

To the extent practical, engines will be selected from residential customers or professional users; however, the Signatories recognize that engines also will be selected from manufacturers fleets, as long as the engines represent typical in-use engines.

The Field Durability and In-use Emission Performance Demonstration Program would be conducted every four years. The data from this program are neither designed nor intended to be used for compliance purposes.

The Signatories recognize that the test programs covered under sections 4(a), 4(b) and 4(d) should be designed in a way to minimize the overall burden on the manufacturer while meeting the goals of these provisions including a reasonable cap where appropriate on the overall level of testing required. The Signatories further recognize that while the maximum testing may be required in the initial years of testing, EPA will reduce the testing burden as appropriate in subsequent years as the overall database grows. To that end, the total field engine test burden for the largest manufacturers by sales volume for tests required for these programs will not exceed 96 field-aged engines in a four year period or 24 field-aged engines in a one year period. EPA will propose an appropriate scaling of the field engine test burden for smaller volume manufacturers. It is intended that only a representative sample of engine families will be tested in the program set forth in Section 4(d). EPA will have the discretion to proportion the test engines among the test programs covered under Sections 4(a), 4(b) and 4(d). The Signatories also agree to permit the Field Durability test program to run over multiple years and to provide for appropriate delays or waivers from the requirements of the bench correlation program in years when a manufacturer also runs the field durability program.

5. Manufacturer Flexibilities During the Transition to OHV Emissions Performance Engines

Recognizing that old technology will be phased-out during the transition period to clean durable OHV emissions performance technology for Class 2, the Signatories agree to certain flexibilities to accommodate an orderly transition. Manufacturers would be allowed to bench-age Class 2 SV or aftertreatment engines and to demonstrate compliance with the FEL based on 120 hours of testing during the transition period. However, manufacturers would certify to and use 250 hours for credit calculation purposes.

6. Small Volume Provisions

The Signatories agree that for SV Class 2 engine families with less than 1000 units produced for sale in the U.S. can continue to meet the 24.0 g/kw-hr standard in 2005 and subsequent model years. With the 2005 model year, however, this standard will become a cap and these engines will be excluded from the ABT credit calculations.

7. Fuel Spillage Reduction Program

The Signatories recognize the contribution to air pollution from fuel spillage and agree to work collaboratively and with other affected parties to develop a voluntary Fuel Spillage Reduction Program which provides information and education to a variety of audiences and encourages the development and use of technology that will reduce spills by users.

8. Test Procedures and Other Requirements

The signatories agree that the model year definition will be the same as for the Phase 1 rule, and the interpretation of the model year definition for the start-up of the Phase 1 program will also exist for the start-up of the Phase 2 program in order to provide maximum flexibility in the transition to Phase 2 standards.

The Signatories acknowledge that this SOP does not address such issues as test procedure or certain other issues included in the existing Phase 1 Rule. The Signatories acknowledge that any changes not specifically set forth above could adversely affect the manufacturers ability to meet the standards and effective dates in this SOP. EPA will continue to review all aspects of the Phase 1 regulatory program to determine what areas, if any, need to be updated to reflect experience gained during Phase 1 or to implement the provisions contained in this SOP. EPA does not plan on proposing any changes in the areas not addressed herein, or any additional programs not consistent with this SOP, such as evaporative emissions standards, that would materially change the stringency or cost of the Phase 2 regulatory program.

9. Stability

One of the key principles of this SOP is to design a regulatory program that provides industry with stability and predictability, allowing it to make and recoup the investments that will be needed to achieve the emissions reductions called for under this SOP. EPA recognizes this level of investment, and acknowledges the need for a corresponding period of stability and certainty.

10. Harmonization

The Signatories recognize the value that harmonizing standards within the United States would have on the cost of producing engines and equipment and support the goal of harmonization as long as it does not undercut achieving the air quality needs the standards are designed to achieve, and the Signatories will work with the California Air Resources Board (ARB) to this end. The Signatories will also coordinate and consult with ARB in order to achieve the maximum appropriate harmonization of the elements of their respective small SI engine regulatory programs, including, for example, test procedures, certification, and compliance assurance, recognizing the value for EPA, manufacturers and users associated with harmonizing these programs.

[FR Doc. 97–7626 Filed 3–26–97; 8:45 am]

BILLING CODE 6560–50–P

Thursday
March 27, 1997

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 39

Federal Acquisition Regulation; Modular Contracting; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAR Case 96–605]

RIN 9000–AH55

Federal Acquisition Regulation; Modular Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comment and notice of public meeting.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing a proposed amendment to the Federal Acquisition Regulation (FAR) to address the requirements of Public Law 104–106, the Information Technology Management Reform Act (ITMRA) of 1996, regarding acquisition of information technology (IT) using modular contracting techniques. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: *Public Meeting:* April 28, 1997, 9:00 a.m. until 12:00 p.m.

Written Statements Due: April 22, 1997.

Comments Due: Comments should be submitted on or before May 27, 1997 to be considered in the formulation of a final rule.

ADDRESSES: *Comments:* Interested parties should submit written comments and copies of their oral presentations to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

Internet: E-mail comments should be addressed to: 96–605@www.arnet.gov.

Public Meeting: GSA Auditorium, 1800 F Street, NW (First Floor), Washington, DC 20405.

Please cite FAR case 96–605 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 96–605.

SUPPLEMENTARY INFORMATION:

A. Background

Division E of Public Law 104–106, ITMRA, at Section 5202, enacted new policies and procedures for the acquisition of IT and directed that they be implemented in the FAR. Specifically, ITMRA requires that coverage for modular contracting be included in the FAR.

The following coverage addresses that ITMRA requirement by proposing to provide guidance to Federal agencies about using modular contracting, to the maximum extent practicable, when acquiring major systems of information technology. When using a modular contracting approach, agencies acquire major IT acquisitions by dividing them into smaller, more manageable increments. ITMRA indicates that agencies should complete the award of each successive module in a shorter time frame, preferably within 180 days from the date when a solicitation is issued. In addition to more rapid acquisition of modules, other potential benefits that may be realized as a result of modular contracting include delivery and testing of systems in discrete increments that are not dependent on other increments, and the opportunity in subsequent increments to take advantage of any evolution in technology.

The FAR Council, the Chief Information Officers (CIO) Council, and the Interagency FAR Information Technology Committee are interested in an exchange of ideas and opinions with respect to this rule and, accordingly, have scheduled a public meeting at the GSA Auditorium, Washington, DC, on April 28, 1997, at 9:00 a.m. The public is encouraged to furnish its views. Written statements for presentation should be submitted to the FAR Secretariat by April 22, 1997. Persons or organizations with similar positions are encouraged to select a common spokesperson for presentation of their views.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule would not impose any specific cost burden on small entities, over and above what burden the marketplace demands for modular contracting compliance. The modular contracting approach should slightly benefit small entities because use of modular contracting techniques should increase the number of business opportunities available to them. When a modular contracting approach is used, large complex IT systems will be divided into smaller, discrete increments that may subsequently be made available to small business entities to bid and manage. The proposed rule would provide needed coverage to ensure that ITMRA is implemented regarding use of modular contracting for the acquisition of IT systems. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR part will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 96–605), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 39

Government procurement.

Dated: March 20, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Part 39 be amended as set forth below:

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

1. The authority citation for 48 CFR Part 39 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 39.002 is amended by adding in alphabetical order the definition of ''Modular contracting'' to read as follows:

39.002 Definitions.

Modular contracting, as used in this part, means use of one or more contracts to acquire information technology systems in successive, interoperable increments.

* * * * *

3. Section 39.103 is added to read as follows:

39.103 Modular contracting.

(a) This section implements Section 5202, Incremental Acquisition of Information Technology, of the Clinger-Cohen Act of 1996 (Public Law 104–106). Modular contracting is intended to reduce program risk and to incentivize

contractor performance while meeting the Government's need for timely access to rapidly changing technology. Consistent with the agency's information technology architecture, agencies should, to the maximum extent practicable, use modular contracting to acquire major systems (see FAR 2.101) of information technology. Agencies may also use modular contracting to acquire non-major systems of information technology.

(b) When using modular contracting, an acquisition of a system of information technology may be divided into several smaller acquisition increments that—

(1) Are easier to manage individually than would be possible in one comprehensive acquisition;

(2) Address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable systems or solutions for attainment of those objectives;

(3) Provide for delivery, implementation, and testing of workable systems or solutions in discrete increments, each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

(4) Provide an opportunity for subsequent increments to take advantage of any evolution in technology or needs that occur during implementation and use of the earlier increments.

(5) Reduce risk of potential adverse consequences on the overall project by isolating and avoiding custom-designed components of the system.

(c) The characteristics of an increment may vary depending upon the type of information technology being acquired and the nature of the system being developed. The following factors may be considered:

(1) To promote compatibility, the information technology acquired through modular contracting for each increment should comply with common or commercially acceptable information technology standards when available and appropriate, and shall conform to the agency's master information technology architecture.

(2) The performance requirements of each increment should be consistent with the performance requirements of the completed, overall system within which the information technology will function and should address interface requirements with succeeding increments.

(d) For each increment, contracting officers shall choose an appropriate contracting technique that facilitates the acquisition of subsequent increments. Pursuant to parts 16 and 17, contracting officers shall select the contract type and method appropriate to the circumstances (*e.g.*, indefinite delivery, indefinite quantity contracts, single contract with options, successive contracts, multiple awards). Contract(s) shall be structured to ensure that the Government is not required to procure additional increments.

(e) To avoid obsolescence, a modular contract for information technology should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued. If award cannot be made within 180 days, agencies should consider cancellation of the solicitation in accordance with FAR 14.209 or 15.606(b)(4). To the maximum extent practicable, deliveries under the contract should be scheduled to occur within 18 months after issuance of the solicitation.

[FR Doc. 97–7606 Filed 3–26–97; 8:45 am]

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Federal Register

Thursday
March 27, 1997

Part IV

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Part 2510

Definition of Plan Assets; Participant Contributions; Proposed Rule

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2510

RIN 1210–AA59

Proposed Rule Amending the Definition of Plan Assets; Participant Contributions

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This document contains a proposed rule that would amend the Department of Labor's final regulation published in the **Federal Register** on August 7, 1996 that defines when participant contributions to a pension benefit plan become plan assets for purposes of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The proposed amendment would harmonize the Title I rules governing the definition of plan assets with the Internal Revenue Code (Code) rules governing the timing of deposits for Savings Incentive Match Plans for Employees (SIMPLE plans) that involve Individual Retirement Accounts (SIMPLE IRAs) and thereby simplify compliance by small businesses.

DATES: Written comments must be submitted on or before May 27, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210. Attention: Proposed Participant Contribution Regulation Amendment.

FOR FURTHER INFORMATION CONTACT: Amy J. Scheingold, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, D.C. (202) 219–8671; or William W. Taylor, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC (202) 219–9141. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On August 7, 1996, the Department of Labor (the Department) published a final regulation at 61 FR 41220 defining when certain monies that a participant pays to, or has withheld by, an employer for contribution to a plan are ''plan assets'' for purposes of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the related prohibited transaction provisions of the Internal Revenue Code (the Code).[1] Section 2510.3–102(a) of the final regulation sets forth a general rule that provides that the assets of a plan include amounts that a participant or beneficiary pays to an employer, or amounts that a participant has withheld from his wages by an employer, for contribution to the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets. With respect to employee pension benefit plans covered by Title I of ERISA, section 2510.3–102(b) of the final regulation further provides that in no event shall the date determined pursuant to section 2510.3–102(a) occur later than the 15th business day of the month following the month in which the participant contribution amounts are received by the employer or in which such amounts would otherwise have been payable to the participant in cash.

Except as provided in ERISA § 403(b), plan assets are required to be held in trust by one or more trustees.[2] ERISA § 403(a), 29 U.S.C. 1103(a). In addition, ERISA's fiduciary responsibility provisions apply to the management of plan assets. Among other things, these provisions make clear that the assets of a plan may not inure to the benefit of any employer and shall be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries, and defraying reasonable expenses of administering the plan. ERISA §§ 403–404, 29 U.S.C. 1103–1104. These provisions also prohibit a broad array of transactions involving plan assets. ERISA §§ 406–408, 29 U.S.C. 1106–1108. Employers who fail to transmit promptly participant contributions, and plan fiduciaries who fail to collect those amounts in a timely manner, will violate the requirement that plan assets be held in trust; in addition, such employers and fiduciaries may be engaging in prohibited transactions.

On August 20, 1996, the Small Business Job Protection Act of 1996 (the Act, Pub. L. 104–188) was signed into law. Section 1421 of the Act amended section 408(p) of the Code to provide that certain employers may establish Savings Incentive Match Plans for Employees (SIMPLE plans). Under amended section 408(p) of the Code, an eligible employer may establish an employee pension benefit plan by making contributions to each eligible employee's SIMPLE Individual Retirement Account (SIMPLE IRA). Section 408(p)(5)(A)(i) of the Code provides that an employer must make salary reduction elective contributions to each eligible employee's SIMPLE IRA not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made.[3] However, section 1421 of the Act did not amend Title I of ERISA, as it did the Code, with respect to when such participant contributions become assets of the plan.

The Need for the Proposed Amendment

In order to harmonize the Title I rules governing the definition of plan assets with section 408(p) of the Code, as amended by the Act, the Department proposes to amend 29 CFR 2510.3–102 to provide that salary reduction elective contributions under a SIMPLE plan that involves SIMPLE IRAs become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets, but in no event later than the 30th day following the month in which such amounts would otherwise have been payable to the participant in cash.

The Proposed Amendment

The proposed rule contained in this notice would preserve the general rule set forth in section 2510.3–102(a) governing when participant contributions to employee pension benefit plans become plan assets. However, the proposed rule would amend 29 CFR 2510.3–102(b) by specifying that the maximum period during which salary reduction elective contributions under a SIMPLE plan that involves SIMPLE IRA may be treated as other than plan assets is the same

[1] The Secretary of Labor has authority to issue regulations relating to most of section 4975 of the Internal Revenue Code pursuant to section 102 of Reorganization Plan No. 4 of 1978. 5 U.S.C. App. 165, 43 FR 47713, October 17, 1978. For the sake of clarity, the remainder of the preamble refers only to Title I of ERISA. However, these references apply to the corresponding provisions of section 4975 of the Code as well.

[2] ERISA § 403(b) contains a number of exceptions to the trust requirement for certain types of assets, including assets which consist of insurance contracts, and for certain types of plans. In addition, the Secretary has issued a technical release, T.R. 92–01, which provides that, with respect to certain welfare plans (e.g. cafeteria plans), the Department will not assert a violation of the trust or certain other reporting requirements in any enforcement proceeding, or assess a civil penalty for certain reporting violations involving such plans solely because of a failure to hold participant contributions in trust. 57 FR 23272 (June 2, 1992), 58 FR 45359 (Aug. 27, 1993).

[3] The Department has taken the position that contributions to an employee benefit plan made at the election of the participant, whether made pursuant to a salary reduction agreement or otherwise, constitute amounts paid to or withheld by an employer (*i.e.* participant contributions) within the scope of § 2510.3–102, without regard to the treatment of such contributions under the Internal Revenue Code. *See* 53 FR 29660 (Aug. 8, 1988).

number of days as the period within which the employer is required to deposit withheld contributions under a SIMPLE plan that involves SIMPLE IRAs under section 408(p) of the Code, as amended by the Act. For all other pension plans covered under Title I of ERISA, including SIMPLE 401(k) plans that meet the requirements of section 401(k)(11) of the Code, the maximum period would remain 15 business days following the month in which participant contributions were received by the employer (for amounts that participants or beneficiaries pay to the employer) or would otherwise have been payable to the participants in cash (for amounts that the employer withholds from the participant's wages).

Effective Date of the Amendment

The Department is publishing this proposed rule for notice and comment and will promulgate this rule in final form subsequent to such comment period. The Department expects to issue a final rule 30 days following the close of the comment period. The Department has determined to propose that the final rule will be effective immediately upon publication. Moreover, the Department wishes to note that, pending adoption of the final amendment proposed in this notice, the Department will not assert a violation in any enforcement proceeding relating to salary reduction elective contributions under a SIMPLE plan that involves SIMPLE IRAs solely because the earliest date on which participant contributions could reasonably be made to a plan is later than 15 business days following the month in which such amounts would otherwise have been payable to the participant in cash, but not more than 30 calendar days following the month in which such amounts would otherwise have been payable to the participant in cash.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires each Federal agency to perform an initial regulatory flexibility analysis for all proposed rules unless the head of the agency certifies that the rule will not, if promulgated, have a significant impact on a substantial number of small entities. Small entities include small businesses, organizations, and governmental jurisdictions. Although the Department believes that the proposed rule will not have a significant economic effect on a substantial number of small entities, the Department has elected to publish the following initial regulatory flexibility analysis in accordance with the requirements of 5 U.S.C. 603.

(1) Why the Action Is Being Considered

The Department is promulgating this regulation in order to harmonize Title I regulations with the Code, as amended by the Act. This is discussed in greater detail in the Supplementary Information section above.

(2) Objectives of, and Legal Basis for, the Proposed Rule

The proposed regulation harmonizes 29 CFR 2510.3–102 with section 408(p)(5)(A)(i) of the Code, as amended by the Act. This is discussed in greater detail in the Supplementary Information section above.

(3) Description and Estimate of Small Entities to Which the Rule Will Apply

The proposed amendment would apply only to those employers that make salary reduction elective contributions under a SIMPLE plan that involves SIMPLE IRAs. These employers may be individuals, businesses or other for-profit institutions, and not-for-profit institutions. However, only employers that have no more than 100 employees who earned $5000 or more in compensation during the preceding calendar year are eligible to make these contributions under the Code. No small governmental jurisdictions will be affected by this regulation because governmental plans are not covered by Title I of ERISA. It is estimated that 6,000 employers would be affected by this proposed language. [4]

(4) Description of Compliance Requirements and Classes of Small Entities Subject to Requirements

The proposed rule would impose no additional reporting, recordkeeping or other compliance requirements. Rather, by harmonizing a recently issued Title I regulation with the Code, eligible small employers that make salary reduction elective contributions to SIMPLE plans that involve SIMPLE IRAs will have a longer maximum time period to comply with requirement that participant contributions be placed in trust. The proposed rule may affect classes of small entities to the extent that the entities choose to establish such plans and to the extent that the such contributions cannot be segregated from the entities' general assets earlier than the maximum time period.

(5) Duplicative, Overlapping, or Conflicting Federal Rules

The Department is not aware of any relevant federal rules that duplicate, overlap or conflict with the proposed rule. It is the view of the Department that harmonizing the Title I definition of plans assets with respect to participant contributions with section 408(p) of the Code, thereby establishing a uniform set of rules for salary reduction contributions to SIMPLE plans that involve SIMPLE IRAs, will simplify plan establishment and administration.

(6) Available Alternatives

There are no significant alternatives to the proposed rule which would accomplish the stated objectives of the Act yet have less of an impact on small entities than the proposed rule. One purpose of the Act is to encourage small employers to adopt retirement plans by permitting them to use simplified retirement plans not subject to the complex rules ordinarily applicable to tax-qualified plans. [5] The proposed rule reflects the accommodation to small entities provided by the Act.

Executive Order 12866

This regulatory action is not a ''significant rule'' within the meaning of Executive Order 12866 (58 FR 51735, Oct. 4, 1993), because it is not likely to result in: (1) an annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Paperwork Reduction Act

The rule proposed in this notice is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) because it does not contain an ''information collection request'' as defined in 44 U.S.C. 3502(11).

[4] This figure is based on the revenue estimates for the Act prepared by the Joint Committee on Taxation. These revenue estimates suggest that approximately 300,000 SIMPLE IRAs will be created for individuals who previously did not have an employer-sponsored retirement plan. The small employers eligible to establish such plans have between 1 and 100 employees; on average, the small employers eligible to establish such plan will have 50 employees. The number of SIMPLE IRAs (300,000) divided by the average number of employees (50) equals the estimated 6,000 employers offering this form of retirement account.

[5] *See* House Report 104–586 (filed May 20, 1996).

Unfunded Mandates Reform Act

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 5 U.S.C. 1531–1538, as well as Executive Order 12875, this proposed rule does not contain any federal mandate that may result in increased expenditures in either federal, State, local and tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Statutory Authority

The proposed rule would be adopted pursuant to the authority contained in section 505 of ERISA (Pub. L. 93–406, 88 Stat. 894; 29 U.S.C. 1135) and section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), 3 CFR 1978 Comp. 332 and under Secretary of Labor's Order No. 1–87, 52 FR 13139 (Apr. 21, 1987).

List of Subjects in 29 CFR Part 2510

Employee benefit plans, Employee Retirement Income Security Act, Pensions, Plan assets.

For the reasons set out in the preamble, 29 CFR part 2510 is proposed to be amended as follows:

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F, AND G OF THIS CHAPTER

1. The authority citation for part 2510 continues to read as follows:

Authority: Secs. 3(2), 111(c), 505, Pub. L. 93–406, 88 Stat. 852, 894 (29 U.S.C. 1002(2), 1031, 1135) Secretary of Labor's Order No. 27–74, 1–86, 1–87, and Labor-Management Services Administration Order No. 2–9.

Section 2510.3–101 is also issued under sec. 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1978); 3 CFR 1978 Comp. 332, and sec. 11018(d) of Pub. L. 99–272, 100 Stat. 82.

Section 2510.3–102 is also issued under sec. 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1978); 3 CFR 1978 Comp. 332.

2. Paragraph (b) of § 2510.3–102, as published in the **Federal Register** on August 7, 1996 at 61 FR 41233, is proposed to be amended to read as follows:

§ 2510.3–102 Definition of ''plan assets''—participant contributions.

* * * * *

(b) Maximum time period for pension benefit plans.

(1) Except as provided in paragraph (b)(2) of this section, with respect to an employee pension benefit plan as defined in section 3(2) of ERISA, in no event shall the date determined pursuant to paragraph (a) of this section occur later than the 15th business day of the month following the month in which the participant contribution amounts are received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or the 15th business day of the month following the month in which such amounts would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages).

(2) With respect to a SIMPLE plan that involves SIMPLE IRAs (*i.e.*, Simple Retirement Accounts, as described in section 408(p) of the Internal Revenue Code), in no event shall the date determined pursuant to paragraph (a) of this section occur later than the 30th calendar day following the month in which the participant contribution amounts would otherwise have been payable to the participant in cash.

* * * * *

Signed at Washington, DC, this 21st day of March 1997.

Olena Berg,

Assistant Secretary for Pension and Welfare Benefits, Department of Labor.

[FR Doc. 97–7709 Filed 3–26–97; 8:45 am]

BILLING CODE 4510–29–P

Federal Register

Thursday
March 27, 1997

Part V

Department of Education

Office of Elementary and Secondary Education

Alaska Native Programs; Notice Inviting Applications for New Awards for Fiscal Year 1997; Notice

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.320A, 84.321A, and 84.322A]

Office of Elementary and Secondary Education—Alaska Native Programs; Notice Inviting Applications for New Awards for Fiscal Year 1997

Summary: The Secretary invites applications for new awards for fiscal year (FY) 1997 under three direct grant programs for Alaska Natives and announces deadline dates for the transmittal of applications under these programs.

Organization of Notice: The accompanying chart includes the following information for each program or competition:

- The CFDA number and name of each affected program.
- The date on which applications will be available.
- The deadline for submission of applications.
- The estimated available funds.
- The estimated range of awards.
- The estimated average size of awards.
- The estimated number of awards.
- The project period.

In addition, the selection criteria and applicable regulations below apply to each program or competition in this notice.

84.320A—Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment Program

Purpose of Program: To support projects that recognize and address the unique educational needs of Alaska Native students through consolidation, development, and implementation of educational plans and strategies to improve schooling for Alaska Natives, development of curricula, and the training and recruitment of teachers. This program is authorized by section 9304 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or partnerships involving Alaska Native organizations.

Program Authority: 20 U.S.C. 7934.

84.321A—Alaska Native Home-Based Education for Preschool Children

Purpose of Program: To support home instruction programs for preschool Alaska Native children that develop parents as educators for their children and ensure the active involvement of parents in the education of their children from the earliest ages. This program is authorized by section 9305 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or partnerships involving Alaska Native organizations.

Program Authority: 20 U.S.C. 7935.

84.322A—Alaska Native Student Enrichment Programs

Purpose of Program: To support projects that provide enrichment programs and family support services for Alaska Native students from rural areas who are preparing to enter village high schools so that they may excel in science and mathematics. This program is authorized by section 9306 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or partnerships including Alaska Native organizations.

Program Authority: 20 U.S.C. 7936.

Selection Criteria: The Secretary will use the following selection criteria in 34 CFR 75.210 (revised as of July 1, 1996) to evaluate applications under the three competitions in this notice. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is as follows:

(a) *Meeting the purposes of the authorizing statute*—30 points.

(b) *Extent of need for the project*—20 points.

(c) *Plan of operation*—20 points.

(d) *Quality of key personnel*—7 points.

(e) *Budget and cost effectiveness*—5 points.

(f) *Evaluation plan*—15 points.

(g) *Adequacy of resources*—3 points.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION, ALASKA NATIVE PROGRAMS

CFDA No. and name	Estimated available funds (FY 1997)	Estimated range of awards (FY 1997)	Estimated average size of awards (FY 1997)	Estimated number of awards
84.320A Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment Program	$4,950,000	$625,000 to 4,950,000	$1,237,500	1–7
84.321A Alaska Native Home-Based Education for Preschool Children	1,980,000	250,000 to 1,980,000	792,000	1–4
84.322A Alaska Native Student Enrichment Programs	990,000	125,000 to 990,000	495,000	1–3

Project Period for All Programs: 36 Months.
Date Applications Available: March 27, 1997.
Deadline for Transmittal of Application: May 27, 1997.
Note: The Department is not bound by any estimates in this notice. Funding estimates are for the first year of the project period only. Funding for the second and third years is subject to the availability of funds and the approval of continuation (see 34 CFR 75.253).

For Applications or Information Contact: Mr. Sharron E. Jones or Ms. Lynn Thomas, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4500, Mail Stop 6240, Washington, DC 20202. Telephone (202) 260–1431 or (202) 260–1541, or FAX: (202) 260–7767. Internet: Sharron____Jones@ed.gov or Lynn____Thomas@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed. gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Dated: March 21, 1997.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 97–7812 Filed 3–26–97; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
March 27, 1997

Part VI

Department of Education

Library Research and Demonstration; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.039D]

Library Research and Demonstration; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: The Library Research and Demonstration Program provides grants to institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration programs related to the improvement of libraries, education in library and information science, the enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from these projects.

Eligible Applicants: Institutions of higher education that meet the definition of eligibility under the terms of 20 U.S.C. 1141(a) and other public or private agencies, institutions, and organizations.

Deadline for Transmittal of Applications: May 12, 1997.

Deadline for Intergovernmental Review: July 11, 1997.

Applications Available: March 28, 1997.

Available Funds: $1 million.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) the regulations in 34 CFR Part 700.

Invitational Priorities: The Secretary invites applications in which libraries help enhance the reading skills of young children. The Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority 1. Projects that demonstrate new and promising library reading programs to raise the reading skills of young children. Projects should be linked to school reading programs and involve librarians, teachers, principals, and reading specialists.

Invitational Priority 2. Projects that develop and implement cooperative efforts among libraries, schools, and community-based organizations to recruit and train volunteers for after school, weekend, and summer library reading programs. Projects may organize corps of parents and grandparents to serve as tutors to provide reading help to children who need extra help.

Invitational Priority 3. Projects that demonstrate model partnerships among libraries, local businesses, and community groups to stimulate young children's interest in reading. Projects should encourage the expansion of library resources through donations of computer hardware, reading software, and books.

SUPPLEMENTARY INFORMATION: On August 27, 1996 President Clinton announced *The ''America Reads'' Challenge,* a major initiative to ensure that all children can read independently and well by the third grade. Approximately 40 percent of American third-graders don't read at the basic level on national reading assessments. The President invited our nation's schools, libraries, universities, communities, business leaders, and others to help meet his reading challenge. This invitational priority is a direct response to this challenge. By supporting demonstrations of model library reading programs coordinated with the schools and disseminating those programs that make a difference, we can move closer to the national goal—an America where every 8-year old can read.

FOR APPLICATIONS OR INFORMATION CONTACT: Chris Dunn, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 300, Washington, DC 20208–5571. Telephone (202) 219–2299. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1021, 1032.

Dated: March 24, 1997.

Marshall Smith,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 97–7814 Filed 3–26– 97; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
March 27, 1997

Part VII

The President

Proclamation 6979—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1997

Federal Register
Vol. 62, No. 59
Thursday, March 27, 1997

Presidential Documents

Title 3—

The President

Proclamation 6979 of March 25, 1997

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1997

By the President of the United States of America

A Proclamation

Today, the Greek people and the Hellenic Republic will celebrate the 176th anniversary of the beginning of their struggle for independence.

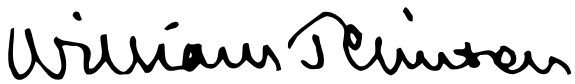
On this day, it is fitting that we reflect on the enormous contributions the Greek people have made to the modern world. The legacy of the ancient Greeks, in the fields of philosophy, literature, drama, sculpture, and architecture, continues to influence our beliefs, our values, and our concept of art. And, after more than 2,000 years, the ideology of Greece—as embodied in the concept of democracy—is still the ideal that guides us in charting our course for the future.

Greek ideology had a profound effect on our Founding Fathers, who molded the American form of government based upon the principles of Greek democracy. Thomas Jefferson studied the Greek classics in his youth and was inspired by their philosophy throughout his life, most dramatically when he crafted the Declaration of Independence. When formulating his vision for this country, Jefferson specifically referred to the integrated assertions, theories, and aims of the classic Greek world.

Our admiration for Greece continues into the modern day, and we salute its commitment to democracy, to peace, and to a united and stable Europe. We share a partnership with Greece in NATO, and our countries are linked forever by close family relationships between our peoples. Our Nation looks forward to working closely with Greece in the coming years as we examine ways to bring full peace, stability, and prosperity to all the nations of Europe and the world.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 1997, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.



[FR Doc. 97–8065
Filed 3–26–97; 11:34 am]
Billing code 3195–01–P

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